

**Bernadus Swartbooi, MP,**

**Landless People's Movement-LPM**

**29 September 2021**

**Contribution to the National Assembly Debate**

**On the**

**Joint Declaration on the 1904-1905 Genocide between Germany and  
Namibia**

**Grateful the Lord Jesus who saved many, and left the remnants to  
complete the struggle for His Glory.**

**Dedicated to the young and the unborn of Namibia: the Immaculate  
Hope of a bright-united Nation.**

***Check against delivery***

Hon. Speaker, Hon. Members,

## PART I

### HISTORIC REPOSE

#### A. PRELUDE TO GOVERNMENT ON JOINT DECLARATION: WARNING OF HISTORY

1. In April 1883, chartering the sea for four weeks, a ship anchored at Angra Pequena Bay of South West Africa. A dubious scum of the earth businessman by the name of Heinrich Vogelsang located Chief Joseph Fredericks II and treacherously bought land measuring about 1 400 square km around Angra Pequena (*Alfred Babing et al: 1981*).
2. Twenty two years later, on this land, Shark Island would cement itself in history as the final venue of brutal and inhumane demise of thousands of the Ovaherero/OvaMbanderu>Nama peoples, as part of the industrial scale genocide upon these groups. This was the first genocide of the 20<sup>th</sup> century.
3. Fredericks obtained 200 rifles out of this deal, but was swindled by the unscrupulous German, who took more land than agreed. Other parcels of land were later acquired by same. The rest is history. Fredericks saw a commercial deal, a development process, perhaps an opportunity. It didn't happen at all. Many in the !Aman community opposed this sale. One day, some years past, according to elders, the missionary Knutzen had a Sunday Church service with men only. While the service was on, the German soldiers came to forcibly take all the guns of the community from the women, including apparently some of these 200 rifles. What was the problem, what was the miscalculation: trusting the stranger over your own people.  
I am by no means vilifying the Chief Joseph Fredericks II, he is my own blood. But he was robbed by the Germans.

4. Today, the SWAPO PARTY government is marketing and selling this Joint Declaration deal as a major victory for infrastructure development and reconstruction. An opportunity, some proponents of the Deal tell the communities far a flung. The Government is so eager to show and argue about how well represented the communities were, how they were consulted. But it just doesn't cut it. They should pause and ask why? Is this perhaps not the season of this agreement? Why is there so much opposition: Are they trusting themselves and the Germans more than the House, or is there a treachery hidden elsewhere?
  
5. Hon. Speaker, we are warning that Namibia is being swindled: we state that Polenz is the modern day Heinrich Vogelsang, acting for the Imperial German Reich as it were, and that the agreement is not an opportunity for any of the affected communities, but at best a lost opportunity. The Namibian government is, nonetheless, pursuing the matter without halt. From a party political stand point, I will urge SWAPO to bulldoze this Agreement through, because it will allow us to institute immediate and decisive legal action, in the local jurisdiction, for reasons I shall later amplify. But from a national interest point of view, and from the perspective of decoloniality , they should desist, and advance to the rear!

## **B. GERMANY: REPARATIONS FOR GERMAN ECONOMIC DEVELOPMENT**

6. Friedrich Engels, in 1893 visited Germany after almost a sixteen year absence. He was astonished at what he found, and wrote: “ *One generation ago Germany was an agricultural country with a two-thirds rural population: today it is an industrial country of first rank, and along the entire length of the Rhine from the Dutch to the Swiss frontiers, I did not find a single spot out of sight of factory chimneys.*” (Alfred Babing et al: 1981).
  
7. In a short historic time frame, from 1871-1896, Germany caught up and even surpassed its competitor's, and banks such as Deutsche Bank,

Dresden Bank, Disconto Bank and the Berliner Handelsbank came to be established and reached heights of profitability. **How did this instant German prosperity come into being?: largely**, the Franco-Prussian War of 1870-1871, resulted in France being forced to pay **5,000 million** gold marks as reparations to Germany. Off course, the discovery in electrical industry and iron and steel industries also engineered German economic rise.

8. Hon.Speaker, Hon. Members, the point I am canvassing herein is that Germany very well understands the deep impact of reparations. Her own economic and social transformation from underdevelopment to unmatched economic prosperity around the world today is largely due to reparations from France. These reparations payment by France to Germany, paid off in five years, secured that the balance of power in Europe changed forever, away from French dominance to German dominance.
9. The German troops remained in France until the last payment was effected. However, Africans do not qualify for a decent package of reparations, Imperial Germany cannot fathom nor permit such action. The Joint Declaration is an epitaph of superiority of the colonial master. Today, Namibia is proudly parading a thirty-year payment period of German financial peanuts: *How odd. How sad. How scandalous.*

### **C. WHO IS VON TROTHA AND WHAT WAS THE GERMAN INTENTION IN BRINGIN HIM TO GSWA?**

10. Firstly, Hon. Speaker, Hon. Members, the greatest misconception held by many is that the dispossession and wanton killing and impoverishment programmes of Germany began in 1904 and ceased in 1908. Nothing could be further from the truth. To illustrate, an **Imperial Decree Apertaining to the Expropriation of Land and Livestock** was promulgated on **10<sup>th</sup> April 1898**. Specific groups were highlighted, including the Ovaharero and OvaMbanderu and followed by the Swartboois of Fransfontein, the Fredericks of Bethanie, the

Bondelswarts of Warmbad and so on. Abraham Morris and Jakob Morenga took up arms against the Germans on **25 October 1903**, and the Germans were decapitated and fled the fighting, until reinforcements arrived. In **1913**, Simon Kopper and his people were chased into the Kalahari and ended in Betschuanaland. In **1911**, an Extermination Order was issued against the San Hai//Om community who were hunted for leisure even up to **1919**, by some white farmers. So the horror began earlier than 1904, and “ended” far later than 1908.

11. To return to answering the question of the intention of the German Reich: Von Trotha was brought to South West Africa to expedite and achieve total control of the land and its resources, via subjugation of the restive natives. This required a murderous and sick man to execute a major task swiftly by exterminating the natives mercilessly. He had the record and the experience: Von Trotha **exterminated three hundred thousand Wahehe/Mayi Mayi** in German East Africa, present day Tanzania, from **1894-1897**. He was then posted to China, to crush the **I-ho-tuan Movement of the Heshu people in 1900**. He was then moved to Togo, and eventually to South West Africa. Later, von Trotha would be appointed as **“Honorary Fuhrer of the Hitler Youth.”** (ibid). Therefore he was a celebrated figure.
12. With **600 million gold marks** for the colonial war in South West Africa, the German troops numbered **20 000 by 1904**. **The war machine had to be sizeable. 2 500** never lived to return home.
13. Private companies benefitted from the war exercise: and the Motion by Chief Riruako demands that private companies also be the centre piece of the reparations question, and this matter has not even been taken up at all. For example, Woerman family made huge profits by transportation of guns, soldiers, horses, camels and other needs for the war machine to function optimally. The names of these ships had all family members’ names given, and were: Eleanore Woerman, Lucie Woermann, Alexandra Woermann, Erich Woermann, Ernst Woermann,

Gertrud Woermann, Eduard Woerman and Anna Woermann. (Babing et al: 1981). Tippelskirch corporation made uniforms and equipment for the colonial troops, and was the second largest profiteer of the war, as well as the arms production companies. In brief, the entire German nation was mobilised for this colonial war.

## **PART II**

### **THE JOINT DECLARATION**

#### **D. THE INTERNATIONAL LEGAL REGIME**

14. The International Covenant on Civil and Political Rights (ICCPR), as well as the International Convention on the Elimination of Racial Discrimination (ICERD) and the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) are the appropriate tools that exist under which Germany must be held accountable for its Genocide on Africans. These rights speak to freedom from discrimination, the right to self-determination, and are inalienable rights to participation at both individual and collective levels. Participation rights of the affected communities are well established and respected under international law, and Namibia and Germany completely ignored these international Statues for their own government-to-government bilateral interests.
15. Moreover, the Basic Principles and Guidelines on the Right to Remedy and Reparations for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, stresses and amplifies, quiet eloquently the right to remedy and reparations. Several UN Bodies have expressed displeasure at the exclusion of the affected communities and these include the Working Group on the Rights of People of African Descent, in 2017, and the UN High Commission for Human Rights under Michel Bachelet, in a letter dated 02 November 2018, asking Foreign Minister Maas of Germany to secure participation of affected communities. The UN Human Rights

Council Working Group on the Universal Periodic Review equally demanded for the inclusion of the affected communities, in May 2018.

16. Then there is the well-established international law principle of **Free Prior Informed Consent-FPIC**. Briefly, in a simplified way, this principle asserts that communities must freely, without manipulation or coercion, be recognised on matters pertaining to their well-being and must be consulted prior to any decision to be taken that affects them. They must consent to any such decision. In this alleged “negotiations” process, there was no application of the FPIC regarding the affected communities. The consultations must be genuine, sincere and inclusive. At best, the Namibian governments approach to the affected communities was sectarian, factional and party political based. Important to realise is that Namibia signed for the UN Declaration on the Rights of Indigenous Peoples in 2007 (UNDRIP). Germany has also acceded to the ILO Convention, 189 NO. 169, agreeing to the respect of indigenous and tribal people’s rights, by ratifying this Convention recently. Crucially, this Convention applies to foreign relations and states are bound by it externally too.
  
17. **The Maartens Clause** is an important international treaty arrangement. The **General Act of Berlin Conference 1884**, states that indigenous people be treated well in Art. 6 and Art. 9. Additionally, **Conventions II and IV with Respect to the Laws and Customs of War on Land of 1899**, stipulated in Art. 4, that prisoners of war be treated humanely, and in Art. 7, that food, quarters and clothing be provided on the same footing as the soldiers of the Government that captured them. Further, Art. 23 prohibits killing and wounding of a defenceless enemy or an enemy that has surrendered. These were international instruments of “civil nations” binded Germany legally regarding its own conduct of war. If it did not abide by these principles, as was the case with Ovaherero/OvaMbanderu>Nama Genocide, it was clearly breaking the established rules with the knowledge that human rights from that early perspective was violated.

## E. THE RIRUAKO PARLIAMENTARY MOTION-THE DEMISE OF SEPERATION OF POWERS

18. As a constitutional democracy, or so intended to be by legal design, the principle of separation of power between the arms of state is sacrosanct to the administration of the affairs of the State. **Article 44** enjoins the National Assembly as the principle law-making institution. This is because in **article 45**, the National Assembly is tasked to be the representative of all the people of Namibia. To this extent, we are required to act within framework of the Constitution of the Republic.
19. National Assembly passed the Motion of Riruako unanimously, and the Executive branch of the state usurped the legislature by amending and tweaking the resolution of National Assembly as it pleased. Therefore, the Executive is in breach of the spirit and tenor of the Resolution, but also engages in supreme misdemeanour of misleading this august House in the extreme. The government of Namibia was never asked to lead and redefine the principle purpose and intent of the Resolution hewn from the Motion, but it did. The Motion dealt with Reparations.
20. The Government altered the application of the Motion into its own basic tool for Bilateral Development Aid. **(I have the documents here)**. This is gross misconduct Honourable Speaker, for which the Prime Minister, the Foreign Minister, the Defence Minister and all Cabinet Ministers and officials must be held accountable for. We intend to vigorously litigate on this matter in the High Court as well as in the Supreme Court, if we have to go to that length. It is plain wrong and unacceptable that the interested party becomes the lead party by its own devices outside the law. *I shall highlight particularly the misconduct of Hon. Kapofi, Hon. Ndaitwah and Hon. Kuugongelwa-Amadhila later in the passages herein. It is gross misconduct that requires the Privileges and Immunities Committee to institute action without delay.*



### PART III

#### F. THE CONTEXT AND TEXT OF THE DECLARATION

21. Jan Grofe, in analysing and contextualising the likelihood of success of the Ovaherero in her claims against the Deutsche Bank for its complicity in genocide, suggests the following: “..*At independence in 1990...The Namibian government for its part agreed that continuing German development aid, together with the German Democratic Republic’s support for the South West African People’s Organisation (SWAPO) during the struggle for independence against South Africa, made reparations payments void.*” In others words, the SWAPO Party already unscrupulously sold-out the affected communities on the historic question of Genocide, and agreed in 1989 on these terms, and moved toward re-affirming these terms after immediately at independence. SWAPO was serrated on Genocide!
22. It is for this reason, amongst others, that the Hon. Kapofi asserted in this House, that negotiating with the Germans “**wasn’t easy:**” the Germans were probing them on why they are even entertaining this matter!!!
23. The Joint declaration is an awful document, empty of substance and has nothing to do with Reparations. In its introduction, the document refers to the 1989 Bundestagg Resolution, a sell-out self-moralising resolution that moves conceptually and historically away from reparation and genocide toward development and special relationship that lacks any substantive definition. In 2004 the Bundestaag attempted to define the special relationship, but still clarity is absent. Who defined this special relationship?? Again, it’s the colonial master! The asymmetric power relations are evident. The two parties recognise the 2006 National Assembly resolution, which clearly outlines how the Genocide reparations process should be executed, but they ignore it altogether. The agreement is mindful of the strong and cordial relations between their countries. If this was the case outside government-to-government

relations, Germany would have seen the genuine suffering and political and economic marginalisation of the affected communities. Some years back the German government brought in an insult of a programme called the German Special Initiative, which had no impact at all on lives and livelihoods of people. Does this accord with the 2004 Bundestagg Resolution? They were providing ten goats and five cattle and those projects just did not transform any lives. Did they not see that???? Since there are close and cordial relations???? This is the German and SWAPO histrionic approach, quite reprehensible!

24. The special relationship is for the interests of German speaking Namibians to be protected. It has nothing to do with Genocide survivors. What Special Relationship is it that the German Government could not even wish to speak directly to the victims??? They avoided them to be at the high table, never stood up for the special relationships sake? If the local German community was affected as the black survivors, we would have seen German investment and development programmes loaded on the Namibian landscape. Has the German government directly investigated the livelihood of the communities upon which the 2004 Bundestagg resolution claims a special relationship? Where do these communities go to feel and experience this special relationship that German refers to?
25. This Declaration does not even do the honourable thing to highlight how many Hereros, Mbanderus, Namas, Damaras and San were exterminated: large parts, some significant numbers of indigenous people, many thousands-that's the language they use. The question is: how did they arrive at a quantum. The size of land taken, the livestock taken, none of it is mentioned in numerical terms-what have they used to arrive the amount they state in the document.
26. If you can't mention the damage, how to you decide how much its cost of repair will be??? Clearly, Hon. Speaker, the number of people and the land lost and the riches taken are not mentioned because the

Germans would be confronted by the real figure and the real damage they are just simply not prepared to repair!!!!!! But there is another reason why they are not specific with the numbers-the negotiations were not a reparations negotiation- it was development projects negotiations. (Show documents-Bilateral A, Polenz letter B, Ngavirue reply C, Technical Committee Report D).

27. They nowhere even use the word “prisoners”, they softly refer to “internees.” Those banished to Togo and the Cameroon from the Nama fighters and their families are not even referred to for repatriation of bodies or any other manner in which the plight of these families will be addressed. Many of these fighters were actually Swartbooi’s, who were forcibly moved to Spitzkoppe, and their surname was changed to Stuurmann to delink the identity of one from the other, and they were then sent to Togo and the Cameroon. Not all return and were never heard of at all.

28. There is no explicit mention of the Ovaherero and Mbanderu and Nama of Botswana, South Africa. Damaras, who were exterminated up to thirty percent of the population were declared as not having any legal right to claim title to any land!!! They were uprooted, but no broad mention of that as well. The San, hunted for leisure and chased off their land, particularly in Grootfontein, Tsumeb, Otavi and Outjo areas, are not mentioned in any detail. In section II of paragraph 10, Germany effectively exculpates itself from any wrongdoing- with the words “from today’s perspective”, to avoid any legal duty and liability. They avoid an objective standard and only take the moral, historic and political duty, which duty entirely depends on their goodwill to implement. No one is forcing them on moral and political duty, they appropriate this to themselves-and thus the entire declaration depends on Germany’s willingness to do anything. If they do not wish to act upon any matters herein contained, there is no legal obligation and recourse to impose upon them. So Germany will apologise and decide that they will provide money for reconciliation and reconstruction: no reparations!

29. In paragraph 14, this agreement “shall close the painful chapter,” but from whose perspective is that closure made? The villain, the victim, or both as survivors? In paragraph 20, both government agree this Declaration stands as the settlement of all financial aspects of the issues relating to Genocide. Have those proponents of the Declaration read this part of the deal???? Even the payment of mines Germany only “commits herself,” the wording should have been “obliging herself,” and thus Germany has signed its best ever Declaration with its colony through its protégé SWAPO. Let “bygones be bygones” (Kossler: 2015) is the German approach to this Declaration, as a “society of privilege” was laid in the aftermath of the genocidal war.
30. The point for many of us is not to avenge the dead but to give the living and those to be born, a chance to live together as survivors. (Mamdani:2021).
31. I quickly turn to a matter I highlighted elsewhere: Hon. Kapofi and Ndaitwah and Hon. Saara Amadhila-Kuugongelwa have always maintained that this agreement is a reparations agreement. Where does it state so? When elected officials pretend to suggest something different than what they know, than what is written, knowingly, with a view to entice another to agree to act in a particular ways, that conduct is not only fraudulent misrepresentation, and unethical, but it is grossly illegal, given the oath of office we all take to serve the nation with honesty, dignity, integrity and to the best of our abilities. Hence their conduct is criminal and must be addressed, as it falls short of the requirements of Article 60 of the Namibian Constitution.

#### **PART IV**

##### **G. THE NATION-STATE-WHOSE STATE IS IT?**

32. At independence, a new political community should have been formed, one that is inclusive. However, post-colonial Africa has not done

that, and the first question anew is: *Who belongs to the political community of the new nation-state, not how do we distribute wealth*, asserts Mahmood Mamdani, in his latest work *Neither Settler nor Native: The Making and Unmaking of Permanent Minorities*. Politically, Mamdani postulates, decolonization is seen as a two way process: the external assertion of political independence from the colonial power and the membership to the international comity of nations, and internally, redefining and reimagining the political community.

33. Therefore he submits, that the political is intertwined with the epistemological. And this political decolonization henceforth questions the meaning of citizenship on the basis of various rights, namely the civil, political and social rights in a nation-state: whose rights are those, is the question. And is citizenship equal? And to which nation does the nation-state belong? Mamdani argues that in South Africa the apartheid state belonged to the Afrikaners, and they gave up the state for the formation for the new political community which is non-racial and democratic. In Namibia the state belonged to the Germans, then the Afrikaners, and today, it's the Northern elites. This latter is what transpired in Sudan as well, and John Garang died before his vision of "Sudanism" could ever be birthed.
34. This has direct consequences for citizenship; and he argues that to reform the state, citizenship must be on the basis of residency, not identity. The question is: do the victims of the Genocide belong to the political community of Namibia, or is their identity a hindrance to their full enjoyment of citizenship? The Gam and Eiseb Herero and Mbanderu people-are they full citizens of the political community? Clearly not. And so this Declaration of projects demonstrates that this nation-state does not belong to all.
35. It shows that Namibia is a two-state system: for the 1960's war, funds are available for direct payment, land is available. One state, demonstrating who owns the state. Not for those that are not members of the nation who own the state. And therefore the assertion is correct by Mamdani that some countries have just defeated apartheid, and we

have not gotten our liberation at all. Tribal identity will remain an obstacle to full citizenship and toward collective ownership of the state.

36. Finally, we do not support this Declaration for the reasons espoused above. **We suggest that this Motion be withdrawn and that real discussions be jump-started, with all affected community representatives, so that the Rirurako Motion is correctly implemented.** The setting up of a Truth Commission, searching for disappeared persons and bodies, bones and artefacts, officially issuing of a juridical decision restoring dignity, reputation, land and all rights of victim communities, and ensuring that direct individual payments are made to people of affected communities. Who told German and Namibian governments that people can't handle their money? Who told you that trickle-down policy is what communities want? So that which networks can again steal and theft from Genocide resources? Former PLAN combatants are receiving direct pay-outs monthly, why should whoever dictate against this for the affected communities?

37. -END-