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***One People, One Aim, One Destiny.***



**NUDO DEBATE ABOUT THE JOINT DECLARATION  
BETWEEN THE GOVERNMENT OF THE REPUBLIC OF  
NAMIBIA AND THE GOVERNMENT OF THE FEDERAL  
REPUBLIC OF GERMANY ON THE GENOCIDE OF THE  
OVAHERERO AND NAMA**

**HON DR UTJIUA ESTHER MUINJANGUE – NUDO  
PRESIDENT**

**23 SEPTEMBER 2021  
NAMIBIAN PARLIAMENT**

***“We are the voices of the people who died in 1904. We speak on behalf of the skulls and human remains that are in Germany. And that is why we say: It cannot be about us, without us. Because the UN Declaration on the Rights of Indigenous Peoples of 2007 is very, very clearly how indigenous communities should be included. Germany signed that and they can't ignore it. We say the pain that our people felt 117 years ago, we still feel that pain today.”***

**Hon Speaker, Hon Members of this August House,** the position of NUDO, as mover of the 2006 Motion in the Namibian parliament has not changed, it remains as it was articulated by the late Party President, Dr Kuaima Riruako (May His Soul Continues guiding over us!!!).

**Hon Speaker,** allow me to categorically put it clear that the Ovaherero and Nama Genocide is not different from the Jewish Holocaust. Why? It is about negotiations with the very same Government of the Federal Republic of Germany and about the same issues namely acknowledgement, apology and reparation. For the descendants of the Ovaherero and Nama this agreement has no meaning at all. What was the basis of the negotiations?

For the German Special Envoy, Mr Ruprecht Polenz, the Decisions of the German Bundestag Resolutions of 1989 and 2004 formed the basis of his negotiations. These Resolutions emphasise the special relationship between the Federal Republic of Germany and the present day Republic of Namibia, particularly in the field of development cooperation, and highlight the following:

- Germany's special historic and moral responsibility;
- That in the course of time, the Federal Republic of Germany has given high priority to building bilateral relations with Namibia since independence;

- That Namibia is a priority country of German development cooperation and that the German side – since Namibia’s liberation in 1990 – has allocated more than 500 million Euro to finance that work;

In those Resolutions, The German Bundestag calls on the Federal Government to “further deepen the good bilateral relations between Germany and Namibia against the background of Germany’s historic and moral responsibility.”

**Hon Speaker**, on the side of Namibia, one was hoping that the discussions would have been guided by the October 2006 Motion which was unanimously adopted the Namibian parliament. The Namibia Parliament suggested a tripartite negotiation framework, involving the affected communities as the third leg of the triangle. Those affected communities were meant to be the Ovaherero and Nama communities as per the Extermination Orders of Von Trotha on 2 October 1904 and 22 April 1905 respectively. The Motion advocated three fundamental objectives namely that:

- The Government of the Federal Republic of Germany committed genocide against Ovaherero and Nama peoples between 1904 - 1908,
- The German Government to extent unequivocal apology (unambiguous) and

- Germany to pay reparation to the affected communities (who are the affected communities?)

Given the Resolutions from Bundestag and the one from Namibia, it is so clear like day and night that the resolutions do not speak to each other. For the German Government it is purely about special historic and moral responsibility and strengthening bilateral relations between the two Governments, and unfortunately our Namibian Government deviated from the Motion of 2006. For us, the descendants it is about genocide, apology and reparation. Therefore, for us, the agreement remains pointless. There is a vacuum that makes the whole process of negotiations cloudy and unsound.

The agreement is empty;

- Words such as genocide and reparation are not captured in the agreement document,
- The agreement includes words such as reconciliation and development/reconstruction aid or projects,
- The agreement talks about an Order. Come on, it was not just an order it was a *Vernichtungsbefehl* (vernieting – destroy) (Extermination Order),
- No mentioning on how the Ovaherero and Nama in the Diaspora would benefit from this agreement,
- (Clause 10) states that “.... *events that, from today’s perspective, would be called genocide*” No, there is no time value in killing, murder is murder (yesterday, today

and tomorrow). In fact, ironically, the same paragraph quotes the 1948 UN Convention on Genocide which: *“recognises that at all periods of history genocide has inflicted great losses on humanity.”* When Professor Raphael Lemkin, a Polish-Jewish legal scholar coined the word genocide in 1944 – from the Greek word *genos* (race, tribe) and the Latin word *cide* (killing), he said ***he is not discovering a new crime but he is giving a name to a crime that has been there. A crime that has been in existence but did not have a name.*** Even before that, way back in 1868, another legal scholar, German Professor Bluntschli, had written that: ***“Wars of extermination and annihilation against peoples and tribes that are capable of life and culture are violations of international law.”*** Clearly, Germany violated international law of THAT time! The Ovaherero and Nama peoples were capable of life and had rich cultures. Germany committed genocide and cannot run away from it!!

The 2006 Resolution of the Namibian National Assembly clearly prescribed a tripartite negotiation framework, involving the affected communities as the third leg of the triangle. Unfortunately, the negotiations slipped into bilateral negotiations for development aid. Sadly, even the roles of those affected communities which partially participated in the negotiations

under the auspices of the Namibian government, are not recognised in the joint declaration. This is very much clear a Government to Government exercise. Hence, **Hon Speaker, Hon Members**, the descendants of the Ovaherero and Nama communities reject the agreement, and so does NUDO.

**Hon Speaker**, allow me to continue and further amplify why NUDO rubbishes this Agreement/Joint declaration. I listened at various occasions to those who are in support and I ask myself do they have a different document that I do not have? They keep on saying the word reparation appears in the agreement, I keep failing to see it. This is the bone of contention and we understand that Germany refuses to use the word reparation and prefers terms such as “healing the wounds.” Of late we hear Reconciliation Agreement. That is a joke and serious undermining of the people of Namibia. This cannot be compromised, I fail to understand why would our people engage in discussions to find alternative terms? The basic Principles and Guidelines on the Right to a Remedy and Reparation to Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law outlines different types of reparation:

- **Restitution:** restores the victim (to the degree possible) to the original situation before the genocide (loss of land, very valuable asset),

• **Compensation:** provides payment for damage that is appropriate and proportional to the harm suffered. 8 | P a g e •  
Rehabilitation: specifically seeks to repair the harm suffered (loss of culture, dignity, identity & sense of belonging). This one speaks mostly to the Nama and Ovaherero in the Diaspora, especially in Botswana and South Africa,

• **Satisfaction:** may include a closure of continued violations and abuses and official recognition of the harm suffered. Public apology, commemorations and tributes to victims, memorials, and public disclosure of the truth. With its attitude German Government is still in denial, continue violating Ovaherero & Nama rights to speak for themselves. Germany continues to violate their Right to Self Determination which is quarantined in the Namibian Constitution as well as The UN Principles on the Rights of the Indigenous People of 2007. Do these types of reparation form part of the Agreement? The answer is NO, so what are we talking about? It is important for both Governments to understand that there is a difference between Reparation and Development Aid. ***“Development is not a substitute for Reparation. While development is a right for all, reparation is a right for a specific subset of people: those who have been victims of human rights violations. Reparation has intrinsic value in that it restores victims”*** (Ruben Garranza, International Center for Transitional Justice).

**Hon Speaker**, yes, this agreement is not criticised by many victims' associations in Namibia only, but outside the borders of Namibia too. Our brothers and sisters in the neighboring countries of South Africa and Botswana expressed their dismay and disapproval. So did those in the USA, Canada, UK and even liberated minds in Germany, Sweden and elsewhere.

What is annoying is the press release issued by the German Foreign Minister, Herr Maas on 28 May 2021. What did he say? *“As a **gesture** of recognition of the **immeasurable** suffering that was inflicted on the victims, we want to support Namibia and the descendants of the victims with a substantial **program** of € 1.1 billion for **reconstruction and development**”*. Germany is so careful in choosing words that will not lead to legal claims for compensation or reparation.

On the 1.1 billion Euros, Germany fear that admitting genocide shall essentially lead to paying REPARATIONS. Reparations in monetary terms, must be proportional/comparative to the total damage caused by the genocide, be it material and/or psychological. This requires comprehensive quantification of the damage.

To that effect, I'm not surprised that Germany is offering 1.1 billion Euros for **reconciliation**. This is peanuts, is a joke; well money can and will never undo the damage resulted from the genocide, but for the immeasurable suffering as referred to by



Mr Maas, Germany must pay significant amounts to show sincere remorse. The €1.1 billion over 30 years is disgracefully trivial; one German professor remarked that Germany recently spent €700 million (i.e. only €400 million less than €1.1 billion) to renovate a castle/palace which once housed the Kaiser who was responsible for the genocide! If we ignore the time value of money for a moment, then the German offer results in €36.7million per annum, which by coincidence or design, is equal to the annual development aid that Germany has previously paid to Namibia since independence.

Now, €1.1 billion is equal to N\$18.475 billion, and we can round it up to N\$19 billion for ease of calculation; this results in N\$633 million equal instalments over 30 years. However, if we consider the time value of money, using a discount rate of 10% per annum, then the present value of N\$19 billion is only N\$6 billion, i.e. a third of the nominal amount. In relation to the GRN 2021/22 annual budget, the Ministry of Education, Arts & Culture was allocated N\$13.8 billion, which is more than double the German payment of N\$6 billion! Furthermore, the N\$6 billion translates to N\$199 million annual instalments that Germany will pay over 30 years; this represents less than 0.3% of the N\$72 billion actual GRN annual expenditure for 2020/21.

We understand that the Namibian team, under the leadership of the late Dr Zed Ngavirue (Namibia Special Envoy), may his soul

rest in peace, had initially put on the table an amount of N\$1.26 trillion (approximately €75 billion), but now the final amount is less than 1.5% of the Namibian demand. Apparently, Germany's initial counter offer was €300 million, so Germany only moved up 3.7 times whereas Namibia moved down 68.2 times! What kind of one-sided negotiations are these? Therefore, whichever lenses one puts on, the German payment is hopeless, ridiculous. It is inadequate in relation to the immeasurable suffering recalled by the Foreign Minister, Sir Maas.

Moving towards conclusion, **Hon Speaker**, there is a snake in the grass. We have reasons to believe that the process was deceitful and treacherous. Why should the Agreement first come to the Namibian Parliament for ratification? We do not hear any ratification in the Bundestag. There is a snake in the grass!!

Finally, as a way forward, NUDO rejects the Agreement/Joint Declaration, demands that the agreement should not be signed and that the process stop. Germany has created an international precedent with the Jewish-German negotiations. When the leaders of Israel realised that Germany was playing cat and mouse (playing with words, made unrealistic offers) at the Wassenaar negotiations, the negotiations reached a deadlock and the Claims Conference came to a standstill. This resulted in Dr Nahum Goldmann came in the picture, reached out to Chancellor Konrad Adenauer and re-negotiated for an

agreement to negotiate the reparation package. The negotiations included the State of Israel and 23 international organisations that represented the Jews. Hence, if I reflect on this standard/practice, there is no rush with the German and Namibian Governments negotiations. Let us go back to the drawing board with representatives of the Ovaherero and Nama descendants and the Namibian Government at the table to re-negotiate the reparation package for our genocide. In the case of the Jews, the Chancellor, Adenauer, went to the Bundestag and made a public statement that Germany accepted responsibility for the Holocaust and that Germany committed itself to pay reparations. Therefore, before the agreement is brought to the Namibian Parliament, let Angela Merkel, or whoever will take over from her in September, first make a public statement in the Bundestag!!!

Germany paid reparation to the amount of 3 Billion Deutsche Mark to the State of Israel under Protocol 1 for commodities and services meant to rehabilitate and resettle Nazi victims in Israel. Another 450 million Deutsche Mark under Protocol 2 was paid to cater for Nazi victims outside Israel. At the beginning of my statement, I said the Ovaherero and Nama Genocide is not different from the Jewish Holocaust. Therefore, Germany has created the precedent, if they could put on hold the Wassenaar negotiations, why cannot they not stop with the German/Namibian negotiations and re-negotiate the triolque

with the Ovaherero and Nama descendants as well as the Namibian Government. Our genocide/otjitiro otjindjandja is not different from the Holocaust, so Germany do not treat us different, we are human beings just like the Jews, the only difference is we are black and the Jews are white.

I want to leave you with a quote from Grossmann as cited by Rosensaft & Rosensaft ***“The Luxembourg Agreements set a precedent in international law. The German Government had negotiated not only with representatives of Israel, which had no diplomatic relations with Germany, but recognized the representatives of world Jewry, thereby recognizing that the Jewish people as a whole had suffered grave injury resulting from Nazi persecution and were legally entitled to compensation.”***

Frau Merkel and you government treat the Ovaherero and Nama descendants the same way your predecessors treated the Jewry.

**I SO SUBMIT, HON SPEAKER AND I THANK YOU**

