

Wildlife Crime and the Law

• HELGE DENKER

“THEY just get out on bail and do it again” – this is a widespread public sentiment regarding crime in Namibia, and wildlife crime in particular.

There are many misconceptions about law enforcement and the judiciary. Bail is just one of them. At the end of 2019, the number of suspects out on bail amounted to less than 20% for all crimes related to high-value wildlife (pangolin, elephant, rhinos).

The law is designed to protect the fundamental rights and values of society. These include the protection of the country’s biodiversity and the right to a healthy environment. They also include the right to human dignity, the right to personal liberty, and the presumption of innocence until proven guilty – all of which are entrenched in the Namibian Constitution.

Importantly, the trial – not the arrest – of an accused is the central component of ensuring the fundamental values of society are protected. Arrests are often celebrated as a victory (and the granting of bail is often seen as a failure), yet an arrest is only one of the means of ensuring that a person accused of a crime will stand trial for the charges being faced.

A suspect does not need to be arrested to stand trial. The suspect can also be served with a court summons, ordering him or her to appear in court. In situations where a summons is deemed ineffective, the suspect is arrested and charged with the crime.

Depending on the circumstances of the crime, the suspect may then be remanded in custody until the trial is held, or released on bail.

Bail is not specifically covered in the Namibian Constitution, but is governed by the Criminal Procedure Act. In this country, an arrested suspect has the right to apply for bail, but the onus is on the applicant. Bail consists of two aspects: a bail amount that must be paid, and a set of bail conditions that must be adhered to.

Many people see bail as a form of punishment directly related to the crime. It is not. Both the bail amount and the



Photo: File

BUSTED ... Five suspects in possession of four elephant tusks were successfully apprehended by the police in the Zambezi region who have made successful arrests after receiving a tip-off from a community member about their whereabouts.

related conditions are intended to ensure that the accused will not attempt to evade justice, but will stand trial. If an accused absconds, the bail amount is forfeited to the state and a new warrant of arrest is issued. The accused becomes a fugitive from the law.

The higher the risk of absconding, the higher the bail amount and the stricter the bail conditions will be. Both will be directly linked to the personal circumstances of the accused. A person with significant financial means facing a serious charge, and thus the likelihood of a lengthy prison sentence, might consider running from justice.

A foreign national may attempt to

skip the country. All such factors are considered. Bail conditions usually include travel restrictions and the need to report to a police station at regular intervals.

A member of a rural community who has taken to poaching to feed his family and escape poverty may not have the financial means to pay a high bail amount, but may also not pose a significant risk of absconding. A wealthy international businessman acting as a wildlife crime kingpin is in a completely different position.

Other strong arguments for opposing bail are the risks of an accused interfering with ongoing investigations, or

committing new crimes. Wildlife crime always consists of a network of poachers, dealers and abettors. A suspect released on bail may well jeopardise the identification and arrest of other suspects – or get involved in further crimes.

Investigators need to provide valid reasons for opposing bail to prosecutors, who in turn present these during bail applications. Proactive collaboration between investigators and prosecutors are thus important.

While complex investigations may take a long time, it is in the interest of justice – for the accused and the state – to finalise cases as soon as possible. If a case is simple and all investigations

have been completed, it can even go straight to trial without a bail process.

This should be the aim of prosecutors during all straightforward cases, to address the challenge of processing the high number of wildlife crime cases in Namibia.

Over 440 wildlife crime cases were registered during 2019. About 40% of these were related to the three main high-value targets. At the end of 2019, 72% of suspects accused of crimes related to high-value species were in custody awaiting trial, 8% had been convicted and 15% were out on bail. The remainder had been acquitted, or the charges had been withdrawn. Less than 1% of all accused had managed to abscond.

The statistics clearly show that the percentage of suspects out on bail is actually small, and that very few abscond. Conversely, the number of finalised cases is also low. Wildlife crime is obviously placing an additional burden on the Namibian judicial system, which is already faced with a great variety of challenges. Many of Namibia’s prisons are perpetually overcrowded, sometimes exceeding their designed capacity by over 80%.

Improvements can undoubtedly be made to the judicial system. Yet crime is a societal issue. Judicial refinements will only be effective in the long term if they go hand in hand with broader reforms. The granting or refusal of bail is an important, but very small aspect of Namibia’s justice system.

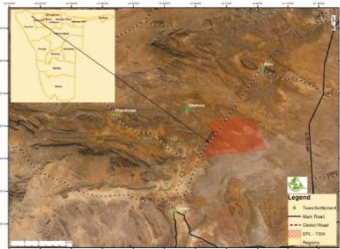
** Helge Denker is a Namibian freelance writer-naturalist based in Windhoek. He also compiles information on conservation issues and the environment for various applications. He currently works with the Ministry of Environment, Forestry and Tourism’s intelligence and investigation unit and the Police Protected Resources Division on wildlife crime cases.*

ENVIRONMENTAL IMPACT ASSESSMENT FOR NAMEX MINERALS (PTY) LTD FOR EXPLORATION ACTIVITIES ON EXCLUSIVE PROSPECTIVE LICENCE (EPL) 7304

Earth Environmental Services herewith gives notice in terms of the Environmental Management Act, 7 of 2007 and Regulation 21 of the Environmental Impact Assessment (EIA) Regulations for the proposed exploration activities on the abovementioned EPL.

Description of proposed activities: NamEx Minerals (Pty) Ltd wishes to conduct a comprehensive exploration program for base and rare metals, industrial minerals and precious metals on EPL 7304.

Location of the EPL area: Kunene region, Opuwo magisterial district as shown in the map below.



Interested and Affected Parties (I&AP) are invited to register with Earth Environmental Services for the proposed exploration activities within 14 days of the advertisement. Registration can be done by requesting of the Background Information Document provided in the email below. Any persons having any objections to the proposed activity may lodge such objections, duly motivated in writing to the address below by **13th August 2020**.

Email: ees.earthservices@gmail.com
Cell: 081 701 6851



EXTRA CHARGE ...

From January 2021, visitors will have to pay a conservation fee in addition to the park entrance fee when visiting national parks in Namibia.

Photo: Wikipedia



New fee for national parks pending

• ARLANA SHIKONGO

THE Ministry of Environment, Forestry and Tourism plans to introduce a conservation fee for visitors to national and game parks, in addition to existing park entrance fees.

In a statement issued earlier this week, ministry spokesperson Romeo Muyunda said the new fee is being introduced because there is a shortfall in resources needed to conserve wildlife and maintain infrastructure in parks.

The new fee will come into effect from January 2021.

“The conservation fee will accrue to the Game Products Trust Fund, and will be used for the management and maintenance of infrastruc-

ture in national parks and game parks; human wildlife conflict mitigation and preventative measures; and wildlife protection and law enforcement,” Muyunda said.

Furthermore, he said the ministry’s development budget had been reduced in recent years due to the current economic climate, and as a result, parks face increased threats.

“There has been a marked reduction in the ministry’s development budget over recent years. This is manifested through increased vulnerability to poaching and increased cases of human-wildlife conflict adjacent to national parks.

“In the long run, this can seriously harm Namibia’s reputation and competitiveness as a

tourism destination and can negatively impact the livelihoods of communities living adjacent to national parks, hence the introduction of a conservation fee,” he explained. Muyunda said the combined conservation and park entrance fees will be based on market related rates and the ministry will consult tourism stakeholders before the fee structure is released.

Namibia has not increased park entrance fees since 2005, and the fees are the lowest in the Southern Africa Development Community (SADC) region, Muyunda noted.

For Namibian residents, park entrance fees range from N\$10 to N\$30, while SADC residents pay between N\$30 and N\$60 and foreigners pay between N\$40 and N\$80.

• GENOCIDE NOT COMMEMORATED

Govt under fire for 'liberation struggle favouritism'

Some communities feel government only commemorates events related to the liberation struggle led by Swapo.

JEMIMA BEUKES
WINDHOEK

A report by the parliamentary standing committee on constitutional and legal affairs has revealed that some communities feel government only commemorates events related to the liberation struggle led by Swapo, such as Cassinga Day and Heroes' Day, while the same honour is not afforded those who perished in the 1904-08 Nama and Ovaherero genocide.

"While all occasions are both of national and historical importance, some communities felt that the genocide, which saw hundreds of thousands of Namibians being killed, raped, tortured and robbed of their land, small livestock, cattle and wealth by the Germans, does not receive comparatively high-profile recognition on a consistent basis," the report said. The parliamentary committee has proposed 28 May as Genocide Remembrance Day. However, Namibians appear to be divided on which day the genocide should be commemorated, with the Ovambanderu/Ovaherero and Nama Council for Dialogue pushing for either 23 April or 2 October.

Divided opinions

On 2 October 1904, German imperial general Lothar von Trotha declared genocide



FORGOTTEN: Namibians feel government has failed to honour those who perished during the 1904-08 Nama and Ovaherero genocide. PHOTO: FILE

against the Ovaherero people, and extended this termination order to the Nama people on 23 April 1905.

While the rest of the country leans towards 28 May, the Oshikoto, Ohangwena and Oshana regions suggested Cassinga Day or Heroes' Day to commemorate the genocide. According to the report, the Office of the Prime Minister strongly cautioned against comparing tragic episodes in the history of Namibia.

However, it has suggested that the committee and parliament may consider combining the proposed day with an existing public holiday, for example Human Rights Day.

Favouritism

The report pointed out that communities in //Karas have accused government of favouritism, saying it pays more attention to the commemoration of Cassinga Day and

Heroes' day, while ignoring the genocide. Consultations on the matter have been characterised by animosity, anger and accusations, it said. "The emotionally charged consultation in Windhoek was marred by verbal altercations and utterances by some members of the public. The whole consultation was simply characterised by mayhem, to say the least. This resulted in some supporting and some against the motion," the report stated. It added that communities in Zambezi proposed that research be extended in order to eradicate the sentiment that only certain groups were affected by the genocide. "The policy framework on human remains must be looked into for clear guidance on how to deal with skeletons and other body parts that may be discovered. They proposed memorials, festivals and respectable monuments as forms of remembrance."

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Pensioner charged with sodomising grandson

KENYA KAMBOWE
RUNDU

Johannes Sackaria (85) appeared in the Okahao Magistrate's Court yesterday after he was arrested on Monday and charged for allegedly sodomising his grandson.

The incident allegedly happened on 30 June at Otsalindi village in the Otamanzi constituency. Sackaria, who is charged with rape by means of sodomising, appeared before assistant magistrate Alma Arutur.

The matter was remanded to 2 October for further police investigations and for the accused to obtain legal representation.

Sackaria was released on a warning after the victim's representatives did not object his release, on condition that he be moved from the house where the incident occurred.

Terrible ordeal

Namibian Sun previously reported on the ordeal when the victim's guardian, who spoke on condition of anonymity, narrated what transpired at their homestead on 30 June. The source said the victim allegedly revealed what had happened to him after seeing his grandmother, a week after the incident, applying ointment similar to the one used on him prior to the rape. According to the victim, his grandfather allegedly told him to wait for him in his room as they would be sleeping together.

The boy usually slept next to his grandmother. Despite the accused denying the act at the time, the family opened a case at the Okahao police station.



SHOCKING: An 85-year-old pensioner has appeared in court for allegedly sodomising his grandson. PHOTO: FILE

PUBLIC WARNED OF POTENTIAL TVALOLOKA SCAMS

ELLANIE SMIT
WINDHOEK

The police have warned the public about possible scams involving the Twaloloka informal settlement in Walvis Bay that was shattered by a massive blaze on Sunday night.

A toddler died in the fire. Police spokesperson, Deputy Commissioner Kauna Shikwambi, said several Good Samaritans, sympathisers and organisations had urged the public to make donations through various individuals and banking platforms.

"Considering that every situation is regarded as an opportunity by criminals, the Namibian Police Force would like to warn the public to be alert, as initiatives like these are proven to have room for potential scams. Habitual criminals are and may be using this situation to rob goodhearted and sympathetic Namibians of their hard-earned money and property in the name of the Twaloloka victims," Shikwambi said in a statement.

The police encouraged the public to make sure that whatever items or money they intend to donate is done through known, verified and credible sources.

Shikwambi said people can alternatively contact the national disaster risk management in the Office of the Prime Minister on 0811 247 338.

Homes destroyed

A fire started on Sunday at about 18:00 in the Twaloloka settlement, and subsequently spread to other shacks, destroying between 150 to 200 homes.

The body of a three-year-old boy, Nghukongwanongo Felep Mhandla, was discovered in the debris.

According to the police, the fire allegedly started in the shack where he lived with his parents. His 39-year-old unemployed mother told the police she left him in the shack, where she was preparing food on a gas stove, with a seven-year-old child while she went to the shop. She also left a candle alight, according to preliminary information.

Bed caught fire

On her return, and while she and others were standing outside, the seven-year-old child alerted her that the bed was burning. It is suspected that the candle fell on the bed and caused the fire.

The mother ran inside and tried to save

the boy by pulling the bed out, but he was already burnt and fell under the bed.

Efforts were made to remove boards adjacent to other shacks, but were unsuccessful and the fire spread. The mother was not injured. Meanwhile, the police said community members started blaming firefighters for taking too long to respond, while others felt that they were supposed to start extinguishing the fire from another side. This resulted in community members physically attacking officials and damaging police and municipal vehicles. The door and windows of a private house in Spitzkoppe Street near Twaloloka were also damaged after a security officer sought protection there after being chased by the angry mob of community members. He was rescued by the police, who fired warning shots.

"Subsequent to a security-threatening situation, reinforcements, including Namibia Defence Force members, were dispatched to the scene to remedy the situation. As a result, teargas and rubber bullets were used to disperse the angry mob."

The police said ultimately the situation was controlled. Firefighters only managed to extinguish the fire at around 01:00 on Monday.

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CAREERS FOCUS 11 AUGUST 2020

FOCUS

Theme: Decoding 21st Century Careers!

NMH will be publishing another successful Careers Focus on the 11th of August 2020 in the Republiekin, Namibian Sun and Allgemeine Zeitung. This focus edition will compliment this year's first ever Virtual Careers EXPO on My Zone Facebook page on 12 August 2020 on www.careersv.com

Don't miss out and Watch the Space





• GANJA USERS SAY POLICE OFFICERS ABUSE CITIZENS BECAUSE OF PALTRY SALARIES

PAY THEM: The Ganja Users Association of Namibia says police officers should be paid more. PHOTO: NAMPA

GUN president Borro Ndongula says the low salaries police officers earn is the why they **subject members of the public to abuse.**

OGONE TLHAGE
WINDHOEK

The Ganja Users Association (GUN) of Namibia has encouraged government to pay members of the police service more. This call was made during a recent demonstration to denounce

the treatment members of the public experience at the hands of the police. The organisation's president Borro Ndongula said the low salaries police officers earn is the reason why they subject members of the public to abuse. "Maybe some of the reasons they

are beating people is because they are underpaid. We are calling on the line ministry or the inspector-general to give the police a raise," he said. "We know that police officers do not have houses and such, but they provide an essential service. This is also why we are calling for a raise," he added.

Apartheid laws

The association urged the police not to use apartheid-era laws in the

execution of their duties. "How is it that our police officers are made to enforce apartheid-era laws that in ways violate people's rights and freedoms, which are guaranteed to all Namibian citizens by the supreme law, the constitution? The very same document every man and woman in uniform swore to protect, defend and uphold?" Ndongula said.

The association also accused police officers of taking the law into their own hands during the

execution of their duties. "Allegations of police brutality in all regions of Namibia continue despite a stern warning from President Hage Geingob," Ndongula said. According to him, those who act brutally often do not account for their actions. "Nationwide police brutality and killings have been rampant against civilians by police officers. Police officers continue to shoot unarmed civilians, with little, and in most cases, no consequences," he said.

Erongo travel permits still on the table

ADOLF KAURE
SWAKOPMUND

A notice displayed in one of the Swakopmund police station's windows was removed on Saturday after it created uproar amongst the town's residents.

On the 'Namibians United Against Lock-down' Facebook group, Hannelie Horn Turner expressed her disapproval regarding the notice, which read: "No permits will be issued until further notice. The

public is encouraged to stay home and stay safe. Thank you." "I suppose this means we are now officially prisoners," she wrote. She also sent a message to Erongo 24/7's Facebook page to voice her frustration, adding that the notice was placed in the window on Saturday at 09:50. Meanwhile, a police officer on duty who chose to remain anonymous, later removed the notice, saying residents are allowed to apply for travel permits.

"The notice was put on the window earlier in the year and it is old. It is not even supposed to still be on the wall, so let me remove it now. "People have been queuing up for permits, even on Friday, and they are allowed to apply for travel permits," she said. When approached for comment, Inspector Il-eni Shapumba, the police unit commander of community affairs for the region, reiterated that residents can apply for permits to travel out of Swakopmund. "We

are issuing travel permits strictly in line with the law," he said.

Shapumba made these remarks after consulting with the Swakopmund police station command-

er. Last Friday, President Hage Geingob urged the Erongo Region and the special dispensation for the local authority areas of Walvis Bay, Swakopmund and Arandis will

response. "I hereby inform the nation that the Erongo Region and the special dispensation for the local authority areas of Walvis Bay, Swakopmund and Arandis will

remain unchanged and is hereby extended from Tuesday, 4 August, until midnight Monday, 31 August 2020."



MISLEADING: A notice on the window of the Swakopmund police station created confusion on social media. PHOTO: ADOLF KAURE

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PUBLIC PARTICIPATION NOTICE
ENVIRONMENTAL ASSESSMENT: IRRIGATION AND RELATED ACTIVITIES ON VARIOUS FARMS IN THE OMAHEKE REGION

Geo Pollution Technologies (Pty) Ltd was appointed by O. M. Steyn, Hinz Investments CC, E. van Niekerk t/a Vision Farming and N. Steenkamp (the proponents), to undertake environmental assessments for crop cultivation and related activities on the farms: Springvale No. 337, Okatambaka No. 266, Bosville Wes No. 755, Rika No. 266, Tokat No. 343, Conellan No. 247, Owingi No. 246 Okasondana No. 264, Evare No. 265 and Okatjikuri No. 263 in the Omaheke Region. The detailed project locations may be viewed at: <http://www.thenamib.com/projects/projects.html>

The environmental assessments will be conducted according to the Environmental Management Act of 2007 and its regulations as published in 2012.

The proponents currently irrigate land by means of drippers, sprinklers and centre pivot systems. For irrigation, groundwater is abstracted from boreholes. All boreholes used for irrigation will be registered with the Ministry of Agriculture, Water and Land Reform. The main produce are maize, wheat, oats and moringa.

All Interested and Affected Parties are invited to register with the environmental consultant. By registering you are provided with the opportunity to share any comments, issues or concerns related to the project, for consideration in the environmental assessments. Additional information can be requested from Geo Pollution Technologies. All comments and concerns should be submitted to Geo Pollution Technologies by 21 August 2020.

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