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Report to the Parliamentary Portfolio

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Mr Mapulane, members of the Portfolio Committee on Environmental Affairs, members of the Colloquium, thank you for inviting me to present my findings and views on trophy hunting in Greater Kruger National Park.

I speak as an investigative journalist, criminologist and Law Commissioner for the International Union for the Conservation of Nature (IUCN), and…

I’d like to bring before you three issues relating to hunting in Greater Kruger:

* Legislation which is contradictory or not applied, both of which need to be remedied,
* Non-compliance, non-transparency and questionable trophy hunting practices, particularly in the APNR, plus Kruger’s dereliction of duty in this regard, and…
* Reputational damage caused by trophy hunting in these private reserves, particularly the hunting of lions.

Let me begin by anticipating the presentations by SANparks and the Department of Environmental Affairs which follow. They’ll tell you that the SANParks Policy Framework and revised KNP Management Plan provide for cooperative arrangements in an open system, and will stipulate that hunting is a legitimate activity in the buffer zones surrounding Kruger Park.

They’ll say this is consistent with the sustainable management of wildlife, provided it’s conducted in accordance with the appropriate legislative framework and regulation set by the national and provincial conservation authorities – subject to Cooperative Agreements and Protocols, one of which dates back to 1996. It will be pointed out that this activity is reflected in the Management plans of Cooperative partners, particularly the APNR where a controversial lion hunt recently took place. All this is true.

But there is something amiss…

**Let me begin with the legislation**. The Centre for Environmental Law counted 18 pieces of national legislation, 8 biodiversity management plans, 19 norms and standards notices and procedures, 10 pieces of provincial legislation and two international conventions/treaties which inform the protection of wild animals. Their goal, however, is not welfare.

In almost all these pieces of legislation, animals – including wild ones – are considered to be property and a resource. The underlying perception is that their management and care are agricultural issues concerning commercial exploitation.

**Here’s the first issue:** In terms of the Game Theft Act 105 of 1991, wild animals in this country actually don’t exist. This is because it deems any animal adequately fenced in on private or public property to be owned and therefore no longer wild. As there are no unfenced areas in SA, there are no wild animals. Hunting and facilities like lion bone abattoirs, are therefore farming issues.

**Who actually owns these legislatively un-wilded animals is another issue.** Both Kruger Park and buffer reserves like the APNR claim *res nullius* (owned by nobody) as the basis of the agreement between them. As animals step over the invisible, unfenced line from the national park, their status is claimed to change from res publicae (owned by us all) to res nullius and trophy hunters can shoot them. In correspondence Kruger has claimed this.

*Res nullius* has no place in South Africa. It was first proposed as a political justification for white ownership of land in the Cape in the 1830s and is closely linked to colonial and imperial notions of possession and ownership. It is in conflict with the South African Constitution.

**Here’s a third issue:** According to the Game Theft Act, an animal’s wild freedom ends the moment someone encloses it within a fence or pen or shoots it. In that instant it becomes private property. When the fences came down between Kruger and its western neighbours, however, the unintended consequence was that the private reserves were contained within a larger area safeguarded by the Protected Areas Act and, arguably, the law of res communis – in the public domain as a common heritage to humankind.

This is acknowledged in The Protected Areas Act of 2003, which states:

‘All animals in a national park are, for as long as they occur in the national park, deemed to be public assets held in trust by the State for the benefit of present and future generations as part of the public estate. They remain public assets even when they leave the national park. This is true of both damage causing animals as well as valuable animals.’

The implications are that when the fences came down between Kruger and the APNR, the animals in the private reserves became incorporated into the larger entity and, in terms of the Game Theft Act, became *res communis.* And in terms of the Protected Areas Act they remain Kruger animals under the park’s protection.

In permitting them to be hunted, the park is therefore allowing the destruction of public assets which it was established to protect.

Kruger appears to sidestep this responsibility and make any enquiries difficult to the point of needing to extract information by way of PAIA requests. It:

* Continually insists (as does the Associated Private Nature Reserves, the APNR) that animals hunted in the unfenced reserves along its border are not from the park, though they obviously are.
* It refuses public access to annual quotas of animals it permits to be hunted in the APNR (4 413 this year) or hunting reports.
* It refused permission for a recent lion hunt in Umbabat, but the hunt went ahead anyway. We have yet to be told why.

On the last point, Kruger authorities claimed responsibility for the hunt rested with the Mpumalanga Tourism & Parks Agency (MTPA) and not itself, and refused to say if it had been approached by the provincial authority for permission to hunt the lion.

**This committee also needs to consider the priority of national over provincial legislation.** In the aforementioned hunt, it was acknowledged by the Umbabat warden that the lion was baited. This violates the Greater KNP Hunting Protocol for reserves which states:

* Hunting should be conducted according to set rules to ensure that the spirit of fair chase is honoured. It also states:
* The animal must be within its natural habitat under free-roaming conditions and must be in a position to escape the hunter.

Neither was true in the recent Umbabat lion hunt.

Baiting the animal also appears to violate the Threatened or Protected Species (TOPS) Regulations of 2004 which does not permit baiting during a hunt.

The MTPA has not signed the regulations for five years. But environmental lawyers Cullinan & Associates argue that conflict of this nature is dealt with in our Constitution and TOPS Regulations should prevail when it comes to the killing of a listed TOPS species. They say, and I quote, ‘the survival of the whole species in South Africa requires a uniform approach and cannot be dealt with effectively by each province making their own laws’.

Thea Carrol of the DEA appeared to agree. She said it was the Department’s view that the TOPS Regulations must prevail over a conflicting provision of a provincial nature conservation ordinance when it comes to the killing of a listed threatened or protected species*.(Communication with attorney Sarah Kvalsvig of the law firm Cullinan & Associates).*

The reputational damage resulting from lack of transparency, confusion of responsibilities and secrecy was evident in the furore surrounding the hunting of the Umbabat lion, which was undoubtedly the pride male named Skye (one of his cubs were killed and his females were savaged shortly afterwards without his protection).

The public was denied the name of the hunter and PH, denied access to the hunting permit and denied access to the skin to check the identity. The DEA said it would investigate but would await application of an export permit. The MTPA refused independent access to verify this.

The Umbabat warden, Bryan Haverman, is on record insisting that the hunted lion was an “elderly mail lion that often encroaches into the north-eastern section of the Umbabat from KNP.” But on 8 August the DEA emailed journalist Louise de Waal saying:

“We wish to reiterate that the hunting permit did not stipulate as a condition that a specific lion should not be hunted.  Accordingly, even if it is possible to verify that the skin of the hunted lion is indeed that of Skye, this would not provide evidence that any offences have been committed.”

On radio on Friday, Isaac Phaahla of SANparks implied he knew the identity of the hunted lion, saying ‘that lion was named Skye’.

After journalists discovered the hunt and began to ask questions, the amount of ducking and diving by officials has all the signs of a really bungled cover-up. It raises worrying questions about who they are protecting and why.

Although Kruger authorities continue to give permission to hunt animals which, under the Protected Areas Act, remain their responsibility, **they are clearly aware of questionable practices** which should make the park rethink their annual permission to hunt in the APNR.

Their concerns include discrepancies on offtakes, non-compliance in reporting, claims that the age of hunted elephants could not be assessed because ‘rodents had eaten the tags on their jawbones’, tardy hunt reporting, exceeding the allowed tusk size on some elephant hunts, hunting lions without informing Kruger rangers, not signing the hunting protocol, Umbabat requesting permits to hunt **more** buffalo in the hunt class than were on the reserve.

Umbabat seemed to be of particular concern and a request to hunt a lion and a leopard was refused (but the lion was hunted anyway).

There was also concern about how income generated by hunts was used. To quote Kruger:

‘It is … not clear towards which conservation, management and socio-economic activities the revenue generated is being directed. It is the mandate of MTPA as issuing authority to verify that management takes place as per approved Management plan, including that revenue generated contributes to the functions as stipulated.’

The continual permitting offences are clearly putting pressure on SANParks. When probed on the recent Kruger lion hunt, KNP managing executive Glenn Phillips said that "If Umbabat doesn't sort out their governance issues, Kruger will re-erect the fence."

On the Friday radio broadcast Isaac Phaahla said Kruger was reviewing the cooperative agreement between them and the APNR and ‘parties who do not wish to comply will no longer form part of the open system.’

On the Umbabat lion hunt alone there has been massive international criticism and damage to Brand South Africa, which will reflect on tourism.

**The last point I want to make is about that damage**. I need to begin with a question: Why is a small group of largely white hunters and game farmers being allowed to hold to ransom the country’s formerly excellent wildlife reputation and to damage our tourist industry?

Perceptions matter in the tourism industry. Consumers are becoming increasingly ethically conscious and consumer preferences are shifting away from unethical activities.

The legalisation of the sale of rhino horn and lion bones, canned hunting, elephant-back safaris, cub petting and a reputation as the best place to hunt iconic and protected trophy animals is no secret to an international tourism market thousands of times more lucrative and providing many more jobs than these ethically questionable practices.

What Kruger Park and the DEA do not seem to be aware of is the sheer scale of the overseas reaction which is undermining the efforts of the Department of Tourism and threatening thousands of needed jobs.

I have placed on Parliamentary record a report on damage being done to Brand South Africa by lion breeding, bone sales and trophy hunting. It runs to 46 pages of small type listing global marches, international campaigns, petitions, international newspaper criticism, films, youtube videos, reports and books criticising these practices. We do not look good to much of the world concerned with conservation.

The report found bans on the transport of trophies from the country by 42 international airlines, marches against lion hunting in 62 cities, 18 online petitions cumulatively signed by nearly 2-million people, 10 international campaigns against canned lion hunting and thousands of articles. Many tourism bodies are flagging hunting as a problem in their correspondence.

The hunting fraternity claims to provide revenue and jobs, but it’s threatening an industry with far greater impact in both of those areas.

A report on the SA hunting industry last year found that it provided 1 162 jobs.[[1]](#footnote-1) Tourism employs 687 000 – one in every 23 employed people and is less susceptable to the labour-displacing effects of new technologies. Between 2012 and 2016 it outperformed all other key industries in job creation.

A report just out by the SA Institute of International Affairs – *The Economics of Captive Breeding in South Africa* – compared the roughly R2.39-billion annual revenue from the hunting industry to the tourism spend of R144.3-billion and warned that reputational damage could reduce the latter figure by R54.5-billion over the next 10 years.

This is what we are risking.

**A positive external image is essential for attracting overseas tourists.** For many years foreign visitors have associated South Africa with iconic wildlife in natural habitats.

But over the last few years, revelations about the truth and scale of the lion hunting and captive lion breeding industry in South Africa, and its direct links with the lion bone industry, have seriously tarnished this image.

I leave you with two suggestions. Trophy hunting is a large international past-time of, mainly, rich Americans and is too powerful and well funded to stop at this stage. But we, as one of the world’s key wildlife countries, need to be able to control where it takes place and what is hunted.

Firstly, we should designate core areas where no hunting occurs, and Greater Kruger is the most important. If hunting is to occur, designate geographically peripheral areas where this can take place.

Secondly, **we should ban the hunting of all iconic and protected animals**, all of which are under terrible threat from poaching across the continent. Lion, elephant and rhino numbers crashing across Africa and tourists know that. It doesn't cut ice with them to say we have more here so we can kill them.

In the past 100 years lion populations have decreased in Africa by 90%, with only around 20 000 left. South Africa is losing around 1000 rhino a year to poaching, lion bones are being permitted to replace tiger bones for fake tiger bone wine. The DEA has just reopened leopard hunting. And elephant poaching has reached south to Kruger.

To the rest of the world, trophy hunting of these animals in the face of their massive illegal destruction appears insane and implicates South Africa in popular perception of aiding their decline.

Lack of action and policy indifference will undoubtedly impact negatively on the tourism trade, further weakening our economy. This is something SANparks and those who administer hunting in Greater Kruger seem to be either completely unaware of or simply don’t give a damn.

I thank you for your time and attention.

1. Van Der Merwe, P., Saayman, M., Els, J. & Saayman, A. (2017) The economic significance of lion breeding operations in the South African Wildlife Industry. *International Journal of Biodiversity and Conservation.* [↑](#footnote-ref-1)