

# CHALLENGES IN THE INVESTIGATION, PROSECUTION AND TRIAL OF TRANSNATIONAL ORGANIZED CRIME IN NAMIBIA

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## I. INTRODUCTION

Namibia (like any other small, developing African country) naturally falls prey to criminal syndicates from across the world, due to its specific vulnerabilities.

Factors like our very porous borders, inadequate border patrols, lack of relevant technology at border posts, the lack of regular training for customs, immigration and other law enforcement officials, corrupt customs and immigration officials, poverty, migration and the lack of relevant criminalizing legislation have made this country a haven for transnational organized criminal groups.

Following a report tabled by a Parliamentary Standing Committee to our National Assembly in order to rectify the unsatisfactory situation at our ports of entry, a local newspaper (*The Namibian*) reported on 10 July 2006 (amongst other things) the following:

- Offices of customs and immigration officials at several border posts were chronically understaffed, while personnel lacked sufficient training and did not have the necessary equipment and scanners to do their work. Vacant posts of officials charged with fraud and bribery could not be filled since their cases took too long to be finalized.
- The scanning machine at the international airport has been out of order for the past six years and thus luggage could not be scanned before it entered the country, while special computer software at immigration desks has not been functioning since 2004 and officials must share *one* outdated handheld scanner which they have to pass from desk to desk. Officials use profiling as a method to determine which luggage needs to be physically inspected and which persons need to be body searched, since the sniffer dogs that were deployed at the airport in 1998 have died in the meantime of old age.

Transnational organized crime is thus present in Namibia in various forms such as cross-border motor vehicle theft, illicit dealing in drugs, illicit dealing in unpolished/uncut diamonds, undocumented trafficking in persons and smuggling of migrants which are perpetrated at both regional and international level.

In order to combat and control cross-border criminal activities the police chiefs of 12 member countries, namely Angola, Botswana, Lesotho, Malawi, Mauritius, Mozambique, Namibia, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe got together in August 1995 to address the need to seek practical means for regional co-operation between law enforcement agencies and as a result formed the Southern African Region Police Chief's Co-operation Organization (SARPCCO). The objectives of SARPCCO are to:

- Promote, strengthen and perpetuate co-operation and foster joint strategies for management of all forms of cross-border and related crimes with regional implications;
- Prepare and disseminate relevant information on criminal activities as may be necessary to benefit members to contain crime in the region;
- Carry out regular reviews of joint crime management strategies in view of changing national and regional needs and priorities;
- Ensure efficient operation and management of records and effective joint monitoring of cross-border crime taking full advantage of the relevant facilities available through Interpol;
- Make relevant recommendations to governments of member countries in relation to matters affecting effective policing in the Southern African region;
- Formulate systematic regional police training policies and strategies taking into account the needs and performance requirements of the regional police forces/services;
- Carry out any such relevant and appropriate acts and strategies for the purposes of promoting requirements of the regional police co-operation and collaboration as regional circumstances dictate.

In addition, Namibia is also a member of Interpol (which reinforced SARPCCO by establishing an Interpol

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Sub-Regional Bureau for Southern Africa in Harare, Zimbabwe that now serves as the SARPCCO Secretariat), the Southern African Development Community (SADC), the Southern African Customs Union (SADU) while the United Nations Office on Drugs and Crime (UNODC) Regional Office for Southern Africa covers 11 countries: Angola, Botswana, Democratic Republic of Congo, Lesotho, Malawi, Mozambique, Namibia, South Africa, Swaziland, Zambia and Zimbabwe.

For the purpose of this paper I will discuss the following transnational criminal activities that are prevalent in Namibia: trafficking in persons and illicit trafficking in drugs.

## II. TRAFFICKING IN PERSONS

### A. Prevalence of the Offence within the Territory

At the moment cases of this nature are largely not documented, investigated and prosecuted in our country, although there is a possibility that they do exist.

#### 1. Indications of Trafficking

On 30 November 2000, *The Namibian* newspaper reported on two Namibian teenage girls that were abducted to South Africa for purposes of sexual slavery. The girls were hitching a ride home when their school closed for holidays when they were kidnapped by a truck crew and smuggled into neighbouring South Africa. There they were repeatedly sexually abused by two men, until one of them managed to escape and reported the matter to the police. However, this report has not been confirmed by investigative authorities in Namibia and neither was it confirmed whether or not it amounted to human trafficking. No investigation and prosecutions followed in Namibia as it was a matter to be dealt with by the South African law enforcement authorities.

Certain safe houses and victim support agencies specifically tasked with the support and rehabilitation of trafficking victims in South Africa also reported last year that victims from neighbouring Angola and Zambia confirmed that they were trafficked through Namibia to South Africa. These girls were trafficked solely for purposes of sexual exploitation.

During the year 2004 a number of newspaper advertisements appeared in local newspapers offering lucrative jobs in the United Kingdom to young people *even without qualifications*. Families of young girls (especially from rural areas) who responded to these advertisements said that the girls went to the UK and disappeared into thin air never to be heard from again. It is thus suspected that young girls are lured by these advertisements with empty promises and then transported by pimps to other countries for purposes of exploitation, in all probability sexual exploitation.

Namibia can thus be categorized as a possible country of origin and transit as far as trafficking in persons is concerned.

The fact that Namibia, like South Africa, is a diverse and multi-cultural country probably makes it a popular transit point for traffickers. Due to the country's diversity anyone can look like a Namibian and customs and immigration officers do not know what to look for. There is also a strong possibility that syndicates are corrupting government officials to obtain false travelling documents, while machines (similar to those used by the Department of Immigration) printing passports and visas were also confiscated at two houses in Windhoek, our capital city, towards the end of 2004. A lot of passports from other countries, including Germany, were also discovered at these two houses and it was suspected that these passports were to be printed with fake visas. This was clearly the work of a criminal syndicate. Although the country has laser engraved identity cards, birth certificates can still easily be forged as these are still handwritten. With such a fake birth certificate perpetrators can obtain both an identity document and a passport.

Namibia is a low middle income country, but has a high income disparity. Factors such as poverty, lack of educational opportunities, lack of employment opportunities, large supply of potential persons to be trafficked, and hopes for a better future elsewhere create fertile ground for human traffickers and youngsters (male and female) can easily be lured away because of their vulnerable positions.

In October 2005 there was an *unconfirmed* news report, after two commercial sex workers were brutally

murdered in Windhoek, that about 1000 street children (boys and girls between the ages of 12 and 16 years) in Windhoek were actively involved in the commercial sex trade for purposes of mere survival. They sleep with sex tourists and "white people" for as little as N\$50 (US\$8) and they have to use alcohol and drugs to be able to do it. All these children ran away from home due to factors such as poverty, alcoholic parents, being orphaned through AIDS, etc. These people are very easy prey to human traffickers and nobody will even notice if they disappear. However, as I have emphasized above, these reports have not been confirmed by Namibian investigative authorities and no one has been prosecuted in this regard. If this were found to be true, perpetrators could be prosecuted for offences under the Combating of Immoral Practices Act 21 of 1980, as amended.

Namibia can also not be ruled out as a country of destination; it is just that law enforcement agencies are not skilled and trained to detect human trafficking and trafficking victims within the country.

## **B. Current Legal Regime to Investigate, Prosecute and Try Trafficking in Persons as an Offence**

### **1. Prosecution of the Offence**

The authority to prosecute criminal cases on behalf of the State vests with the Prosecutor-General which authority she then delegates to the rest of the prosecutors employed by her Office.

The current legal regime does not criminalize trafficking in persons as an offence.

It is, however, common that different phases of the trafficking process involves different types of crimes. Perpetrators are either operating under control of a main organization or in loose connection with each other; or only involved in different phases of the trafficking process; or only part of a sub-group that knows little (if anything at all) about the main organization; or part of a sub-group that is not even aware of the fact that they form part of an organized criminal structure. For that matter perpetrators can be prosecuted for offences under the existing domestic laws. Such offences would include, but are not limited to; fraud; forgery and uttering of a forged document (in respect of fake travel documents); offences under the Immigration Controls Act; corruption (in respect of Government officials and persons in the private sector); kidnapping; abduction; assault with intent to cause grievous bodily harm; rape; sexual assault; extortion; offences under the Labour Law; theft; unlawful carnal intercourse with a child under a certain age; enticing or soliciting another person for immoral purposes; keeping a brothel; procuring a female to become a prostitute or an inmate of a brothel; etc.

#### *(i) Possible Safeguards and Protection of Victims as Witnesses within the Existing Legal Framework*

Unlike neighbouring South Africa, Namibia has no formal witness protection programme, but there are safeguards within our legal framework which can afford victims some protection if they were to co-operate as witnesses against traffickers.

In terms of Section 153 of our Criminal Procedure Act 51 of 1977, (hereinafter referred as the CPA) a court may make such orders so as to exclude members of the public or the media from the proceedings or by imposing limits on the publication of certain information, such as details that could disclose the identity or whereabouts of the victim or witness. This protection however is only afforded while the witness is set to testify and does not extend beyond that.

Article 12(1)(a) of the Namibian Constitution also provides that a court or tribunal, before whom a hearing takes place, may exclude the press and/or the public from all or any part of the trial for reasons of morals, the public order, or national security, as is necessary in a democratic society.

Furthermore, arrangements for the physical protection of witnesses at a relocated place can be arranged with the police on an informal case-to-case basis.

Similarly, Section 158A in the Criminal Procedure Amendment Act 24 of 2003 makes provision for special arrangements for vulnerable witnesses. Section 158A defines a vulnerable witness as a person:

- (i) who is under the age of 18 years;
- (ii) against whom an offence of a sexual or indecent nature has been committed;
- (iii) against whom any offence involving violence has been committed by a close family member or

- a spouse or a partner in any permanent relationship; or
- (iv) who as a result of mental or physical disability, *the possibility of intimidation by the accused or any other person*, or by any other reason will suffer undue stress while giving evidence, or who as a result of such disability, background, possibility or other reason will be unable to give full and proper evidence.

This Section further provides for *inter alia* testimony to be given behind a screen or in another room which is connected to the courtroom via closed circuit television or a one way mirror or by *any other device that complies with subsection (vi)* (i.e. that the witness must be seen and heard by all parties to the proceedings whilst giving evidence). That of course includes testimony through video links.

Section 166(4) of the same Amendment Act 24/2003 also provides that "...the cross-examination of any witness under the age of thirteen years shall take place only through the presiding officer or judicial officer, who shall either restate the question put to such witness or, in his discretion, simplify or rephrase such questions." This accommodates the different stages of development of a child and prevents lawyers from asking complex questions that the child will not be able to understand and answer properly.

It has also been standard practice in our country, like in most other jurisdictions, to make an offer to a co-accused or suspected person to turn State witness and in return to receive indemnity from prosecution for that particular offence or any other mentioned offence in which he or she may incriminate himself or herself whilst giving testimony. This we do mainly to strengthen the State's case as our burden of proof in criminal cases is very heavy; a criminal case must be proved beyond reasonable doubt. This practice is regulated by Section 204 of the CPA.

In terms of Section 204, the prosecutor may inform the court before he or she calls a witness that such a witness will be required to answer incriminating questions with regard to that specific offence or any other specified offence and ask the court to warn the witness accordingly. The court then warns the witness to answer all questions put to him or her frankly and honestly even if it incriminates him or her and in return he or she will be discharged from prosecution in respect of any offence specified by the prosecutor or any competent verdict thereof. If the court is satisfied after the testimony of the witness that all questions were answered frankly and honestly, the court will enter such a discharge from prosecution onto the record of the proceedings. If the court is not so satisfied the witness may be subsequently tried for the same/mentioned offence, but evidence given by him or her in these proceedings may not be used in his or her subsequent trial.

So, it is possible within the existing legal framework to encourage persons who are participating or have participated in the activities of organized criminal groups to testify against the other members or to supply information in co-operation with law enforcement agencies.

## 2. Investigation of the Offence

Investigative powers vest mainly in the authorized members of the Namibian Police in terms of Section 2 of the Police Act 19/1990. The Inspector-General of the Police is appointed by the President and he has both commanding and administrative functions, including the submission of criminal statistics. Recently, the Anti-Corruption Act 8 of 2003 established the Anti-Corruption Commission that also received investigative powers, but only in respect of allegations of corrupt practices in both private and public sectors.

The Namibian Police comprises the Crime Investigation Division which deals with crime administration and also has a number of specialized units, for example: the Drug Law Enforcement Unit; Crime Information Unit; Commercial Crime Investigation Unit; Serious Crime Investigation Unit; Women and Child Protection Unit; and the Motor Vehicle Theft Unit, to name but a few.

In terms of the Police Act 19/1990 the police can employ a number of investigative techniques to detect, investigate or uncover the commission of a crime, for example: undercover operations, controlled delivery, use of informers, electronic surveillance, and interception and monitoring of telecommunications. They also have the power to search for and seize property suspected of being used in the commission of a crime in terms of our CPA.

However, most inquiries involving criminal syndicates stop at the first levels as it is difficult for police to trace ringleaders. The reason for this is because of the lack of trained staff, insufficient numbers of staff, insufficient resources, insufficient financial means, and a complete lack of technology, e.g. they have no electronic surveillance equipment and have very few computers available to be able to create their own databases or to access those of other countries. Databased computer systems are only found at the National Police Head Quarters.

As stated above, law enforcement officers are not skilled or trained to even detect the presence of human trafficking or trafficking victims within our jurisdiction. Currently no investigations or prosecutions are being conducted in respect of human trafficking and its ancillary offences. There is a dire need to train law enforcement officers and a training programme in this regard by the UNODC Regional Office in Southern Africa is set to start in September of this year.

### 3. New Enabling Legislation

Namibia ratified the United Nations Convention against Transnational Organized Crime and its Trafficking Protocol on 16 August 2002 and has in fact moved forward and passed legislation that (amongst other things) criminalizes trafficking in persons.

In December 2004 our Parliament passed the Prevention of Organized Crime Act of 2004 (hereinafter referred to as the POCA). However, it has not yet come into force as the Minister of Justice is still to give notice in the Government Gazette of the date on which this law will come into effect. Currently the Minister of Justice is in the process of finalizing regulations which she will issue in order to bring the POCA into operation. It is expected that this Act will come into operation very soon.

Once the POCA comes into operation, trafficking in persons will be regulated under Chapter 3, Part 2, Section 15 thereof, which reads as follows: "any person who participates in or who aids or abets the trafficking in persons, as contemplated in Annex II of the Convention, in Namibia or across the border to and from foreign countries commits an offence and is liable to a fine not exceeding N\$1,000,000 (US\$142,000) or to imprisonment for a period not exceeding 50 years."

Section 1 of the POCA defines "Convention" as the United Nations Convention against Transnational Organized Crime which was adopted on 15 November 2000 by the General Assembly of the United Nations (Resolution 55/25); it defines "trafficking in persons" as the recruitment, transfer, harbouring or receipt of persons by means of the threat or use of force or other forms of coercion; of abduction; of fraud; of deception; of the abuse of power or of a position of vulnerability; or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation and includes any attempt, participation or organizing of any of these actions. Exploitation includes, at minimum, the exploitation or the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

The protection and support of trafficking victims prescribed and recommended in Article 24 and 25 of the Convention and Articles 6, 7 and 8 of the Trafficking Protocol is not addressed in this Act, but hopefully it will be covered by the Regulations or by separate legislation as in South Africa. In the meantime abovementioned safeguards and protections within the existing legal framework will have to suffice.

## **C. Mutual Legal Assistance and International Co-operation**

There exists both a formal and informal framework within which mutual legal assistance and international co-operation can be provided and obtained.

### 1. Formal Framework for Mutual Assistance and International Co-operation

The principal legal instrument providing a basis for international co-operation in Namibia is the International Co-operation in Criminal Matters Act 9 of 2000 (hereinafter referred to as the ICCM).

Other laws complementing the ICCM are the CPA, specifically Sections 19 to 36 thereof.

The ICCM facilitates the transnational provision of evidence and the execution of sentences as well as the confiscation and transfer of proceeds of crime between Namibia and foreign States. In terms of the

ICCM, Namibia's international co-operation in mutual legal assistance or extradition must be established by way of bilateral and multilateral agreements or by designating specific countries (as was done in Schedule 1 of the Act). It therefore applies to countries so specified in Schedule 1 or to countries which are party to the agreement. Section 27 gives the Minister of Justice the authority to enter into agreements with any other State outside Namibia which is not mentioned in Schedule 1, while Section 33 gives the Minister the authority to add or delete the name of any foreign State to or from the Schedule. As a matter of fact, Germany was added to the Schedule by Proclamation in June 2006.

Currently, authorities are in the process of negotiating treaties with several countries.

The ICCM in Sections 2, 7 & 8 regulates the process to be followed when a request is made for mutual legal assistance and when such a request is received from another country, while Section 20 thereof provides a framework for assistance in enforcing foreign confiscation orders. However, the Act does *not* provide for any other procedure that is required to be undertaken in respect of confiscation of proceeds of crime or instrumentality. So, authorities from a requesting country cannot commence confiscation proceedings in Namibia. Presently, confiscation of the proceeds of crime or instrumentality is provided for in the informal agreements Namibia has with SADC countries, through SARPCCO and Interpol.

Note that dual criminality is not a requirement in terms of this Act.

Namibia has already made four requests (which were also processed) in terms of the ICCM to Latvia, Poland, South Africa and the United Kingdom on the basis of reciprocity and has received and processed three such requests from Angola, Botswana and South Africa.

Namibia is also a signatory to and is about to ratify the SADC Protocol on Mutual Legal Assistance on Criminal Matters. This Protocol (which is not yet in force) provides for assistance in various forms e.g. serving documents, providing objects and temporary transfer of exhibits, taking evidence and obtaining statements, ensuring the availability of detained persons to give evidence or to assist in possible investigations, facilitating the appearance of witnesses or the assistance of persons in investigation, taking measures for location, restraint, seizure, freezing or forfeiture of proceeds of crime to name but a few. The Protocol will come into force and effect as soon as Namibia ratifies it.

Similarly the SARPCCO Agreement in respect of Co-Operation and Mutual Assistance in the Field of Crime Combating provides *inter alia* for the right of police officials to enter into and be assisted by police of another Member State for purposes of investigation, search and seizure. It also spells out specific areas of co-operation e.g. exchange of information, controlled delivery of illegal substances, technical assistance, planning of joint and undercover operations, etc. SARPCCO also provides guidelines on different forms of international co-operation.

## 2. Informal Framework for Mutual Legal Assistance and International Co-operation

Section 30 of the ICCM does not limit the provision and receiving of other forms of international co-operation in criminal matters. In fact Namibian law enforcement agencies have informal agreements with other SADC countries to provide mutual legal assistance in criminal matters through for example, Interpol and SARPCCO. Unfortunately these agreements are not enforceable by a court of law.

### *(i) SARPCCO Response to Trafficking in Persons*

Since 2000, trafficking in persons has become an important part of the organization's work and it adopted various resolutions at different Annual General Meetings to address the increase of this phenomenon in the region. Due to indications of a rapid increase of trafficking in persons within the Southern African region, the Permanent Co-ordinating Committee (PCC) of SARPCCO also adopted different resolutions at its meetings from November 2001. These resolutions were aimed at measures such as: establishing joint task teams to gather intelligence, investigate and prosecute identified trafficking syndicates; strengthening partnerships with Departments of Immigration; examining trafficking legislation in all member countries with a view to making relevant recommendations and to supply information to Interpol's "Bridge" project for regional and global analysis. In 2002 member countries were also asked in terms of at least two resolutions to submit information and reports relative to trafficking in persons to the Sub-Regional Bureau and to disseminate the

same to their counterparts. However, no such reports were submitted to the SARPCCO Secretariat and it was agreed that the Secretariat should carry out some research and report its findings at the next PCC meeting.

### **III. ILLICIT TRAFFICKING IN DRUGS**

#### **A. Prevalence of the Offence within the Territory**

The cross-border smuggling of illicit drugs into Namibia has been going on since the earliest times.

On a global scale Namibia cannot really be categorized as a consumer country. However, consumption does take place, although on a smaller scale. Initially the most prominently abused drugs were cannabis and Mandrax, which contains methaqualone. Since the late 1990s, drug syndicates have also succeeded in introducing drugs like cocaine, crack, amphetamines, ecstasy and heroin into the country. Namibia, with its cosmopolitan inhabitants, created a small lucrative market for virtually all kinds of illicit drugs manufactured worldwide. Local drug dealers established links with their foreign counterparts and the latter then regularly visit and stay in Namibia for the sole purpose of trading in drugs. These drugs are also shipped here from producing countries around the world, as Namibia itself is not a producing country. At a regional level about 95% of cannabis consumed locally comes from neighbouring South Africa, while the other 5% comes from neighbouring Angola, Zambia and Tanzania. At an international level most of our hard drugs like cocaine, heroin and ecstasy comes from countries like South Africa and Brazil.

Namibia can be categorized as being mostly a transit country because drugs such as cocaine, heroin and Mandrax destined for neighbouring countries finds its way there via Namibia. This contraband is being smuggled by road into and/or through the country in furniture trucks (hidden amongst ordinary freight), in public transport (hidden amongst personal belongings) and even in cross-border parcel courier services. The truck and courier drivers are sometimes corrupted and paid by the drug traffickers to smuggle the drugs either into or through the country. International drug couriers also fly via Namibia to neighbouring countries with drug parcels collected in producing countries like Brazil.

#### **B. Current Legal Regime for Investigating, Prosecuting and Trying Illicit Trafficking in Drugs**

##### 1. Prosecution of the Offence

Currently, perpetrators can be prosecuted for possession of and dealing in drugs under the Abuse of Dependence-Producing Substances and Rehabilitation Centres Act 41 of 1971.

The Act is very old and was inherited from South Africa when Namibia was still a colony (known as South-West Africa) of the former. Naturally it does not comply with all the prescriptions and obligations placed on States Parties by the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988. Namibia has not ratified the 1988 Convention yet as it is in the process of drafting its own drug legislation that will comply with the prescriptions, recommendations and obligations announced in the Convention. The legislation is still in Bill form and is expected to be passed as an Act of Parliament within this year.

Section 2 of the 1971 Act regulates the dealing in, use of, or possession of, prohibited or dangerous dependence-producing drugs. According to the Schedule of this Act cannabis, heroin, methaqualone, (as contained in Mandrax) and methamphetamine (contained in ecstasy) are classified as prohibited dependence-producing drugs, while cocaine is classified as a dangerous dependence-producing drug.

Section 1 defines "deal in" (in relation to dependence-producing drugs or any plant from which such a drug can be manufactured) as performing any act in connection with the collection, import, supply, trans-shipment, administration, export, cultivation, sale, manufacture, transmission or prescription thereof, while "possess" is defined as the keeping, storing or having in custody or under control or supervision and "possession" has a corresponding meaning.

The Act also provides for a lot of presumptions in Section 10 which can be invoked in the absence of direct evidence that the accused was in fact dealing in the drugs that were found with him or her. For example, if it is proven in a prosecution that an accused person conveyed any dependence-producing drug or

plant from which such a drug can be manufactured, it is presumed that he or she dealt in such drug, unless the contrary is proven by the accused. Section 10 also includes other presumptions. Upon conviction of a crime set out in Section 2 a perpetrator can receive a heavy fine or an alternative of lengthy imprisonment, or both.

The Act further provides in Section 8 for the forfeiture of certain items to the State upon conviction of the accused. Any dependence-producing drugs found in possession of the convicted person or any vessel, vehicle, aircraft, receptacle, other thing or immovable property (or the rights of the convicted person thereto) which was used for the purpose of or in connection with the commission of the offence can be so declared forfeited to the State upon conviction. Upon a second or subsequent conviction any money found on the convicted person or standing to his credit at any banking or financial institution may be declared forfeited to the State. So, the Act does provide for confiscation of instrumentality and proceeds of crime in its own way.

The prosecution of such matters is not, *per se*, difficult depending on the evidence gathered by the investigating police officers. Direct eye witnesses are normally police officers and informers who are all trained on how testify in court, while indirect or secondary witnesses will be experts who analysed the drugs at the National Forensic Laboratory. Even when forensic analyses are done in neighbouring South Africa it is normally not a problem in getting such witnesses to court. Civilian witnesses also can be afforded the same protective measures as was discussed at length above in B. I. (i).

*(i) Noteworthy Examples of Successful Prosecutions*

In 1997 two refugees from Cameroon and Nigeria were caught at the Windhoek International Bus Terminal with 17.5kgs of cocaine, then valued at about N\$8 million (US\$1.1 million), cleverly hidden inside 72 electrical transformers in their luggage. The duo were on their way to Johannesburg in South Africa with their stash. Sharp-eyed officers from the drug squad noticed the two arriving from South Africa in the morning with very little luggage and noticed them again the same afternoon at the bus terminal with large black bags each. They became suspicious and went into action. The two were convicted of dealing during February or March 1999 and they were both sentenced to ten years' imprisonment. In April 1999 the High Court sentenced an admitted Nigerian cocaine dealer to ten years' imprisonment for dealing 7.5 kgs of cocaine. He tried to smuggle the drugs into the country hidden in the soles of ladies' shoes. The judge commented that the drug problem was an international concern and Namibia must protect the interest of other countries when sentencing offenders.

In November 2000 the Regional Court of Windhoek sentenced two Tanzanians to 10 years' imprisonment for dealing in 3,303 Mandrax tablets and 100 grams of heroin. The heroin was found to be a potentially lethal cocktail of diamorphine and methaqualone.

2. Investigation of the Offence

The Drug Law Enforcement Unit specifically tasked with the investigation of illicit drug trafficking is currently at a terrible position of disadvantage if compared to drug squads of other SADC countries like South Africa and Botswana. Factors such as a lack of trained staff, insufficient staff, lack of financial means, lack of resources (e.g. trained sniffer dogs) and a complete lack of technology make their duties extremely difficult to execute. Investigation techniques locally are limited to the use of informers, spot-checks, routine searches and a method called profiling. With the help of customs officials at the international airport and monitoring flights from Brazil, Johannesburg (South Africa) and Angola, the Unit is able to profile people as possible suspects if they travel frequently to these countries. The person is then kept under physical surveillance as a possible drug trafficker until the suspicion is confirmed or denied. Undercover police operations are very risky as the country is very small and police officers are widely known. The Unit rather makes use of registered and unregistered informers who infiltrate the drug syndicates in order to provide information to the police. Sometimes information is also provided by concerned members of public.

Despite the many hardships faced by this Unit it has had quite a number of success stories over the past few years. For example, in May 2004 three Angolan females were arrested at our international airport with 15.15 kgs of cocaine, with a street value of about N\$9 million (US\$1.2 million), which was cleverly hidden in 112 packages of new shirts. They travelled from Angola via Namibia via South Africa to Brazil and were



following the same route back when arrested in Namibia. Also in the same year, with the help of the South African police through a controlled delivery, the Unit confiscated 200 grams of heroin (Thai-white) from a Chinese syndicate who bought the drugs from South African dealers. In 2005 a total of 4,794 Mandrax tablets coming from South Africa, Zambia and Tanzania were confiscated. In April 2006 an Angolan born Namibian male was arrested following the suspicious death of his wife within hours after they returned from Brazil. An emergency autopsy revealed that she had 32 plastic wrapped pellets of cocaine in her stomach and died of an overdose when one of these packets burst or dissolved in her stomach. A further 13 pellets were retrieved from her husband's digestive system and a total of 582 grams with a street value of about N\$287,000 (US\$41,000) were finally confiscated. Again on 5 July 2006 an Angolan student was arrested at the airport when he allegedly collected the luggage of his mother who travelled to Brazil. The luggage was detained for a routine search and 76 packets of human hair, normally used in the hairstyling industry, that were soaked in a cocaine solution, were discovered in the luggage.

### **C. Mutual Legal Assistance and International Co-operation**

The police mainly make use of informal agreements through Interpol and SARPCCO for the purposes of mutual legal assistance and international co-operation. The Drug Law Enforcement Unit reports that they have excellent co-operation with other SADC countries, especially South Africa and Botswana, in terms of these agreements.

Requests for mutual assistance are normally forwarded from our Interpol National Central Bureau (NCB), situated at Police Head Quarters in Windhoek, through the Interpol Sub-Regional Bureau in Harare, Zimbabwe. However, if it is a matter of urgency and time is of the essence, direct police to police contact is made through the respective NCB's. Similarly the sharing of information or intelligence goes via the same channel for purposes of dissemination and collation. Joint investigations and controlled deliveries, especially with the South African police, are conducted on a regular basis. Approximately two to three SARPCCO joint operations are conducted annually. It is decided beforehand which criminal operations will be tackled and information is then gathered before police officers from member countries go into action together from country to country. Regional training workshops are also arranged through SARPCCO from time to time where police officials can learn a lot from each other as the *modus operandi* of drug traffickers in the Southern African region is more or less the same.

At an international level, the Unit has engaged in controlled deliveries with Germany and Belgium. However, the Unit is no longer approached by international countries for assistance and the reason for this is unknown at this stage.

## **IV. CONCLUSION**

In light of the abovementioned it is clear that Namibia, with its technological and other disadvantages is far from ready to effectively deal with and combat all forms of transnational organized crime. It is clear that Namibia requires urgent UN assistance in respect of financing, technology and training in this regard.