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Legal Assistance Centre Statement on Ultimate Safaris v. Goantagab Mining

The Legal Assistance Centre (LAC) views the dispute between **Ultimate Safaris** and **Goantagab Mining** as one of a critical test of Namibia's commitment to constitutional environmental rights and community-based natural resource management. The case is about more than one mine, it challenges whether government and the courts can balance extractive ambitions with the preservation of fragile ecosystems and the rights of local communities. As public-interest organisation, we regard this matter as exemplary of systemic governance gaps that must be addressed to safeguard Namibia's internationally acclaimed conservancy system.

Constitutional and Legal Significance

- **Environmental rights at stake.** Article 95(l) of the Constitution obliges the State to maintain ecosystems and biological diversity for the benefit of present and future generations. The mine sits in a joint management area home to endangered desert-adapted black rhinos. Conservationists warn that blasting, road-building and heavy machinery threaten wildlife and increase poaching. Intergenerational equity demands that short-term extractive gains do not compromise long-term environmental sustainability.
- **Procedural justice concerns.** Evidence suggests the mining operations may exceed the scope of their environmental clearance certificate, shifting from small-scale claims to large-scale extraction. Affected conservancies argue that they were not meaningfully consulted and that impact assessments failed to address poaching risks. Jurisdictional disputes among traditional authorities further highlight legal gaps regarding communal land rights.

Systemic Governance Implications

- **Threat to community-based conservation.** Namibia's communal conservancy model devolves natural resource management to local communities and generates sustainable tourism revenue. Mining without proper consent undermines community empowerment and could fragment an integrated landscape that supports wildlife-based tourism.
- **Regulatory capture and enforcement deficits.** The ease with which mining claims have been converted to large-scale operations suggests weak oversight. Delays in communicating compliance orders and conflicting positions between ministries reveal poor coordination and potential conflicts of interest. Enforcement mechanisms must be

strengthened to prevent regulatory capture and ensure that environmental conditions are upheld.

Legal Precedent and Public Trust Doctrine

This case offers the courts an opportunity to develop constitutional environmental jurisprudence. Past Namibian and regional cases have recognised procedural and substantive environmental rights. The **public trust doctrine**, under which the State acts as trustee of natural resources for present and future generations, is especially relevant. The doctrine obliges government officials to protect environmental assets and prohibits alienating those assets in ways that compromise their long-term viability.

Governance Reform and Recommendations

- **Strengthen environmental assessments.** Mining applications in sensitive areas should require **strategic environmental assessments** that evaluate cumulative impacts at landscape scale, rather than narrow project-specific studies. Free, Prior and Informed Consent (FPIC) must be mandatory for all extractive activities on communal lands.
- **Value ecosystem services.** Regulatory decisions should incorporate the economic value of ecosystem services provided by intact landscapes, recognising that tourism and conservation can yield sustainable livelihoods.
- **Enhance monitoring and enforcement.** Establish independent environmental monitoring bodies with real-time oversight, supported by community-based monitors. Penalties for environmental violations should be increased, including liability for corporate officers and officials who enable illegal activities.
- **Policy and legislative reform.** Government should impose a moratorium on new mining permits in conservancy areas until mining and environmental legislation is amended to strengthen community consent requirements, improve environmental assessment procedures and clarify jurisdictional boundaries. Adequate funding and technical capacity must be provided to regulatory agencies.

V. Conclusion

The **Ultimate Safaris v. Goantagab Mining** dispute is one of a defining moment for Namibian environmental law. The outcome will signal whether Namibia can uphold constitutional environmental rights, maintain its global reputation for community-based conservation and avoid the resource-curse trap. We call on the judiciary, government, civil society and international partners to work together to ensure that justice, sustainability and community empowerment prevail. The rule of law and the future of Namibia's natural heritage depend on it.
