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**IN THE MAGISTRATES COURT  
OF THE REPUBLIC OF VANUATU**  
(Criminal Jurisdiction)

Cr. Case No. 1038 of 2018.

**PUBLIC PROSECUTOR**

**-v-**

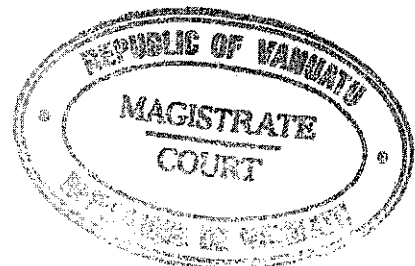
**BOB LANGO  
KAITONG LANGO  
NICOLLA TOM  
NOEL HENIKO  
JOSEPH USISIE**

**Coram:** Moses Peter  
**Court Clerk:** Florina Ephraim

**Appearances:** Laura Lunabek for the State  
Lorenzo Moli for Defendants

**SENTENCING**

1. Mr. Nicola Tom, Bob Lango, Kaitong Lango, Noel Heniko and Joseph Usisie today you appear for sentence after having pleaded guilty on the respective charges that were laid against each of you.
2. For Nicola Tom, you pleaded guilty on the 3 charges of Criminal Trespass contrary to section 144 (a) of the Penal Code Act [CAP 135], and other three charges of Theft contrary to section 125 (a) of the Penal Code Act [CAP 135].
3. For Bob Lango, Kaitong Lango, Noel Heniko and Joseph Usisie, you all pleaded guilty on the charge of Criminal Trespass contrary to section 144 (a) of the Penal Code Act [CAP 135] and Theft contrary to section 125 (a) of the Penal Code Act [CAP 135].
4. The brief facts set out by the State shows that Mr. Michel Monvoisin who is the owner of Tuktuk Ranch, (a cattle farm near Devil's Point) filed a complainant in the Police Department alleging that you entered his farm and stole his cattle.



5. The first offending occurred on month of July 2017 whereby the defendants namely Nicola Tom, Micha Jif Nangia and Kevin Noel Nikiu trespassed into his cattle farm where Micha Jif Nangia slaughtered a black cow and they all took it away with them.
  6. On the second offending, the three defendants again trespassed into the farm and Nicola Tom slaughtered another cow worth VT 60,000. They cut the cattle in pieces and took it away.
  7. On the third offending around 30 December 2017, Nicola Tom, Bob Lango, Kaitong Lango, Noel Heniko, Joseph Usisie and Taman Alick went again into the complainant's cattle farm. While in the farm, Bob Lango and Nicola Tom went further in and Bob Lango shot a cow. The complainant's employee approached and so they ran away. The workers saw the cattle that was being shot so they took it with them.
  8. After the workers had left with the cow, you all came in together and Nicola Tom slaughtered another cow worth of VT 60,000 and you cut it into pieces and took it away with you.
  9. Your actions showed a complete disrespect of a person's right to his property or even that you failed to understand that you are breaking the law of this country and the consequences of your action can be very detrimental. Moreover, you do not care about the losses suffered by the owner of the cattle because of your offending.
  10. I do not believe that you were hunting and that you were going after wild cattle. Everyone knew that Tuktuk area is a common cattle farming area where a number of farmers including the complainant have invested significant money into these farming projects. It does not make any sense that Nicola Tom lived in Snake hill area and instead of telling you to go up mountains above where he lived and hunt for wild cattle, he asked you to follow him towards Tuktuk Ranch which is along the coastline to hunt for wild cattle.
  11. You are all mature people with wife and children to look after. You all accepted that you can make a good feed with your family on the cattle you have stolen from someone. Your wife and children may have asked you where you took the meat from. I believe you might conceal the manner and where the cattle were killed however, if you disclose to them the reality of your offending, I am sure everyone will think stealing from another person is not an unacceptable behavior. If your children grow up being thieves, you are to be blamed for teaching them such bad behavior.
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12. The maximum penalty for Criminal Trespass is 1-year imprisonment and 12 years' imprisonment for theft.
  13. The parliament condemns such bad behavior and considers the offending as serious as reflected in the penalty of the offences in the legislation.
  14. Therefore, this court having recording your guilty plea is obliged by the law to impose an appropriate sentence to mark the seriousness of the offence, to show public disapproval of your offending, to denounce your behavior and to punish you for your offending.
  15. The Prosecutor cited several criminal cases to assist the court in determining the appropriate sentence proportionate to your offending.



16. In *Public Prosecutor v Bihu* [1991] VUSC 60, the defendant was sentenced to two years consecutively on different sets of facts of offences of criminal trespass, damages and larceny.
17. In case of *Public Prosecutor v Norman* [2010] VUSC 60, the 10 defendants were charged on offence of unlawful entry, theft, damage to property and receiving property dishonestly obtained. The defendant that had high degree of culpability was sentenced to 12 months' imprisonment for theft. Other defendants were sentenced to 6 months' imprisonment.
18. Defence Counsel submitted the cases of *Public Prosecutor v Makau* [2017] VUSC 199 where the defendants having pleaded guilty on the charge of Theft of bush knives valued at VT 2,000,000 were sentenced to 16 months' imprisonment but suspended for 2 years after the court took into account of their early guilty plea, their employment status, their previous good character and their remorse.
19. The aggravating factors taken into account are:
- The offence involved a degree of premeditating as your actions clearly reflect that.
  - The offending is done repetitively.
  - Joint Criminal enterprise by all defendants.
  - You have caused multiple lose to the complainant.
20. The mitigating factors taken into account from your counsel's submission were that:

For Nicola Tom:

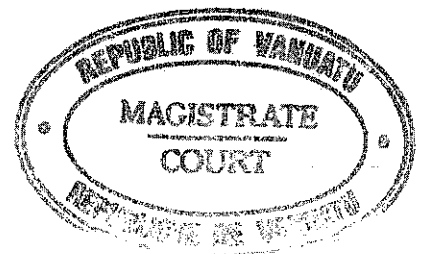
- You are 23 years of age and you reside at Snake Hill Area
- You are educated up to class 6
- You have a daughter with your wife who 6 months pregnant.
- You are a gardener and you sell your garden produce in the market.
- Your family depended on you for their needs.
- You pleaded guilty at first given opportunity and expressed remorse for your offending.

For Bob Lango:

- You are 49 years of age and you hail from Paama Island
- You have a wife with 4 children who depending entirely on you for their daily sustenance.
- You are employed by Ifira Stevedoring Services as a security guard but was terminated because of your offending.

For Kaitong Lango:

- You are 28 years and hail from Paama Island
- You live with your adopted father at Erakor Bridge.
- You are employed by Ifira Stevedoring Services as a mechanic.
- You supported your siblings in paying for their school fees and also meet other household needs.
- You only involved in the once incident of which the cow was killed by Nicola Tom and you took the meat.



For Noel Heniko:

- You Live at Erakor Bridge.
- You are employed as an electrician.
- You have a wife with 3 children who depended entirely on your employment.
- You took part in the last series of crime where the cattle was cut into pieces and you took your share of it home.

For Joseph Usisie:

- You reside at Erakor Bridge with your brother in law.
- You are 32 years of age.
- You just arrive from Santo.
- You have a child who is in school age.
- You thought you were going hunting and that nothing you were doing would constitute a crime.

21. In determining your appropriate sentence I have considered the statement of the learned Judge in the case of *Public Prosecutor v Killion* where he state and I quote:

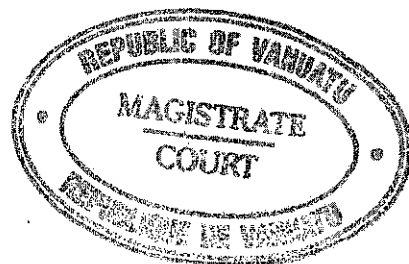
*"When I consider the appropriate sentence for each of you, I take into account the harm done to the victim and to the community at large. Each of you is responsible of course and I must consider the victim's interest... I must protect the community and their property from this sort of offending..."*

22. I therefore order that:

1. Conviction is entered to each of you in respect of the charges.
2. Nicola Tom, you shall serve concurrent to the charges 160 hours of community work.
3. Bob Lango, you shall serve concurrent to the charges 100 hours of community work.
4. Kaitong Lango, Noel Heniko, and Joseph Usisie each of you are to serve 80 hours of community work.
5. You have 14 days to appeal to the Supreme Court if you are not satisfied with this sentence.
6. You must report to a Probation Officer in the Department of Correctional Services to discuss your community work plan within 72 hours from today.

DATED at Port Vila this 22<sup>nd</sup> day of June 2018

BY THE COURT



*(Handwritten mark)*

**MOSES PETER  
Senior Magistrate**

