

Legal Frameworks Against Wildlife Trafficking: Effectiveness of National and International Laws: A comprehensive review

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Abstract—Trade in endangered wildlife has been a concern in the global community since the dawn of international environmental law. The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), one of the most successful international environmental treaties established, addresses the issue through regulation of international trade in certain wildlife species. However, the effectiveness of the treaty has been greatly undermined through illegal wildlife trading. Recently, the illegal wildlife trade has attracted the attention of organized criminal groups, whose participation in the trade have helped make the black market for wildlife the second largest in the world. Providing stricter enforcement mechanisms for CITES and for prevention of organized criminal group activities in the illegal wildlife trade has become a primary focus for the CITES Secretariat. This Note considers some of the international mechanisms needed to achieve these goals, including enactment of legislation specifically aimed at wildlife crime, clearer definitions of culpability requirements, enforcement of stricter penalties for violators of wildlife laws, and extradition agreements between states. This Note also argues that the U.N. Convention against Transnational Organized Crime is currently the best mechanism for international enforcement of CITES. **TABLE OF CONTENTS** **AUTHOR: - J Maher**

Index Terms—Fauna and Flora, enactment, treaties

I. INTRODUCTION

In May of 1998, the U.S. Customs Service and the U.S. Fish and Wildlife Service completed Operation Jungle Trade, a three-year undercover operation that exposed a massive international exotic animal smuggling network. The sophisticated smuggling ring had sold

illegally obtained animals and birds in several states and in ten other countries throughout the world. U.S. officials worked in coordination with foreign law enforcement agencies to investigate and expose the criminal organization involved. Operation Jungle Trade resulted both in the seizure of 662 valuable endangered animals. **AUTHOR: - ME Zimmerman - Vand. J**

KEYWORDS: - sophisticated, seizure, massive.

Research foundations

The initial research concept emerged quintessentially due to the author's personal interest in transnational organized crime and my exposure and involvement in a number of projects and initiatives on transnational organized crime while I was working for the United Nations Office on Drugs and Crime (UNODC) and the United Nations Environment Programme (UNEP) in their regional offices in Bangkok, Thailand and later at TRAFFIC Southeast Asia, from 2007 onwards. In particular, interest was stirred through involvement in two particularly interesting initiatives. The first was the Border Liaison Office (BLO) Mechanism, which is, in a nutshell, a concept to fuel informal law-enforcement cooperation across and along borders to combat transnational crime. The mechanism historically had a focus on drugs but there was an intention to expand it to other transnational crimes including human smuggling and trafficking as well as environmental crimes such as wildlife crime. This expansion started roughly around 2010 with the implementation of a new project to support it. The second was the Association of Southeast Asian Nations (ASEAN) Wildlife Enforcement Network

(WEN) – or ASEAN-WEN in full. This initiative or network emerged in 2005 as an innovative and novel approach to combat wildlife crime in the region (see chapters 4 and 7 for details on both). AUTHOR: - E Van Asch

KEYWORDS: - quintessentially, combat, quintessentially, ASEAN-WEN.

II. DISCUSSION

To optimize the global response to wildlife trafficking, it is imperative to critically examine the structural limitations inherent in the CITES framework, particularly its relatively libertarian approach. CITES plays a crucial role in regulating the international trade of endangered species. Yet, while it was not initially designed as a criminal justice instrument, a significant shortcoming within its framework is the absence of a clear, standardized system for deterrent penalties in cases of breaches. This deficiency seriously undermines the consistency, predictability, and deterrent effect of enforcement efforts, thereby hindering global efforts to combat wildlife trafficking and uphold conservation standards. This article contends that the absence of a concrete and enforceable deterrence framework—particularly, a comprehensive system of sanctions establishing consistent standards for both individuals and legal entities—significantly undermines efforts to combat IWT internationally, regionally, and nationally. Compounding this is the flexibility afforded to CITES parties to enter reservations and to interpret key provisions at their discretion. While such flexibility ostensibly provides some latitude in international commitments, in practice, it creates opportunities for legal fragmentation, strategic non-compliance, and regulatory arbitrage by both state and non-state actors. Overall, the broad margin of discretion afforded to parties in these key areas fosters inconsistent application of CITES provisions, which traffickers are adept at exploiting to circumvent enforcement. AUTHOR: - M Natali.

KEYWORDS: - deterrence, deterrent, outrage.

Enforcement efforts against illegal wildlife trafficking Unregulated exploitation of natural resources not only diminishes vital assets for nations and local communities but also leads to a high mortality rate among trafficked live species due to the secretive

nature of the trade. Poachers often harvest more than needed, anticipating losses during transportation to markets. In addition, besides economic and population impacts, illegal wildlife trafficking wreaks havoc on ecosystems through destructive practices such as tree felling, cyanide fishing, and blast fishing, resulting in coral degradation (World Economic Forum, 2023). The international wildlife trade, estimated by the Convention on International Trade in Endangered Species of Fauna and Flora (CITES) to involve hundreds of millions of plant and animal specimens annually, encompasses a wide range of products, including live animals, exotic leather goods, and medicinal items. And this trade significantly threatens many species, driving some to the verge of extinction. Additionally, bushmeat hunting and the illicit trade target iconic species like rhinos and elephants, as well as lesser-known species such as guanacos and Saiga antelopes, leading to severe population declines (Pires & Moreto, 2016). While not all traded species are endangered, international cooperation, led by organizations like CITES, is crucial for regulating and protecting more than 35,000 species from overexploitation. In Africa, according to the African Wildlife Foundation (AWF), wildlife crimes are often treated as regulatory offences similar to traffic violations, lacking a significant moral stigma for offenders, and hindering effective enforcement. Weak legislation, poor enforcement powers, and limited awareness of wildlife laws exacerbate the situation. Inadequate exhibit storage and evidence tracking further impede successful prosecution, posing a risk of seized wildlife products re-entering illegal markets (Zhigang, 2003). As part of its enforcement efforts, AWF initiated emergency efforts in key wildlife habitats and trafficking hubs across eastern, central, and southern Africa, including Kenya, Uganda, Tanzania, Ethiopia, the Democratic Republic of Congo, Cameroon, Botswana, and Mozambique. This is accomplished by employing intelligence-led strategies in high-risk areas to assist national wildlife authorities in combating armed poaching and collaborating with local communities and organizations to curb illegal activity. AUTHOR: - GO Antai, PA Aidonjje, DC Onyejebu.

KEYWORDS: - exacerbate, traffic violations, guanacos, bushmeat, Poachers.

Priority Areas for Intervention – This is put forward on the basis of ‘themes’. See the rest of the report for country specific recommendations. LEGISLATION: Draft bills are often kept close to the ministry involved and achieving disclosure can be a challenge. Some countries are struggling to amend/harmonise or draft wildlife laws from scratch but at the same time there is a desire to keep the drafting within a secure and small circle. Countries that are in the process of drafting legislation include: Rwanda, Uganda, Ethiopia, Malawi, Mozambique, and Kenya (amendments).

KEYWORDS: - disclosure, Malawi, harmonise.

Proposal 1: Expertise in drafting should be offered to governments given that even simple errors in drafting can undermine the best intentions. This proposal is to develop a model law on wildlife crime in open consultation with other organisations, in particular the UNODC. This will focus upon definitions, crimes and investigatory and ancillary powers relevant to IWT. Harnessing the goodwill of pro-bono support from legal experts has been discussed and already agreed. The creation of a ‘model law’ on wildlife crimes can be used as a benchmark for countries seeking to amend/update their laws, such as Rwanda, and can be made available online. A common law and civil version should be developed bearing in mind the different legal systems in Africa. Model laws do have a value as demonstrated in Somalia where the UNODC model laws on terrorism were used as basis for their draft.

2.INVESTIGATOR / PROSECUTOR COOPERATION: Experience shows that early engagement between investigators and prosecutors leads to better charging decisions, better case preparation and better outcomes at court as evidenced by the work of the NCTSIU in Tanzania, and the EAGLE Network generally. Pre-arrest conferences can ensure that arrests take place at the right stage of an investigation; post-arrest engagement between investigators and prosecutors leads to better charging decisions, better case preparation and better outcomes at court as evidenced by the work of the NCTSIU in Tanzania, and the

EAGLE Network generally. Pre-arrest conferences can ensure that arrests take place at the right stage of an investigation; post-arrest conferences can ensure that a review (and amendment if necessary) of any earlier decision is made in a timely way, and pre-trial and post-trial engagement ensure better preparation and allow for lessons learned. As an anti-corruption mechanism, it provides a check and balance on the decisions made on a file and encourages an investment by both agencies through to the conclusion of a trial.

3.Poor case analysis and a failure to appreciate the necessary

‘Ingredients’ of an offence can often lead to acquittals. The Independent Police Oversight Authority (IPOA) in Kenya found in 2013 that over 64% of felony cases did not meet the minimum evidentiary threshold for charging and only 36% of those cases were able to rectify the defect by the time the trial concluded. Developing ‘points to prove’ guidance has seen an improvement in pre-charge decision making by investigators and prosecutors in Kenya in the context of counter-terrorism; a formal impact assessment is awaited regarding a similar initiative in Kenya for IWT but informal feedback is very positive.

4.The UNODC, UNEP and Space for Giants (SFG) plan to replicate the

‘Kenya model’ on development of a ‘points to prove’ guidance on wildlife crime together with protocols on inter-agency cooperation in Uganda and Tanzania; other projects supporting inter-agency cooperation are planned for Malawi, Zambia, Mozambique and Botswana. Malawi has already developed a legal guidance with the support of the Royal Society for the Prevention of Cruelty to Animals (RSPCA), Stop Ivory, the Department of National Parks and Wildlife and funded by The Department for Environment, Food & Rural Affairs (DEFRA). Feedback from practitioners is awaited on both the Kenya and Malawi publications. AUTHOR: - S Jayanathan.

KEYWORDS: - Harnessing, Somalia, evidentiary,prosecutors.

III. CONCLUSION

Much as the regulatory institution is trying to fulfil its role of conserving wildlife in Uganda, a number of

gaps have been identified as reported above, for example, UWA cleared the export of seven tonnes of pangolin scales, collected from UWA stores and old trophies held by communities across the country in the year 2014. Accordingly, dealing with forest offences in isolation, especially without the buy-in of enforcement agencies such as police and customs, affects the ability to efficiently address the causes and consequences of this phenomenon. An environment should be created where seizures and arrests for wildlife offences are not an end in itself but are linked to the wider fight against serious criminality.

IV. RECOMMENDATIONS

There is need to strengthen the legal framework and facilitate law enforcement and the prosecutors to combat wildlife crime and assist prosecution and the imposition of penalties that are an effective deterrent. There is need to raise awareness in the judicial sector about the seriousness, impact and potential profits of wildlife crime. There is urgent need to set up a coordination centre for all the agencies involved in fighting illegal wildlife trade in Uganda, especially for purposes of centrally storing exhibits from illegal wildlife trade so that they do not end up on the illegal market again. There is need to continue revising the domestic legal instruments to provide for better implementation of ratified treaties and deterrent penalties for wildlife crimes. The Uganda Wildlife Bill of 2017 must be expedited in order to close the loopholes in the current Wildlife Act 200 of 2000 for effective tackling of illegal wildlife trade in Uganda. Possession of illegal wildlife product(s) must be included as an offence in the Wildlife Act so that middlemen arrested with these products can be charged and prosecuted in the courts of law. Authorities should institute a reward system in the form of incentives to those who give credible information about illegal wildlife trade to aid intelligence gathering for successful prosecution in court. This can be done through giving back a percentage of the illegal wildlife products seized to the whistle-blower who must be protected. The Uganda Government through the Ministry of Tourism, Wildlife and Antiquities (MTWA) should harmonise legislation and policies across borders, especially penalties for illegal wildlife trade. The government

must also urgently domesticate CITES to aid in the fight against illegal wildlife trade in Uganda.

NOTE

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KEYWORDS; - phenomenon, pangolin, Antiquities.

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