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ILLEGAL WILDLIFE TRADE AND VICTIMIZATION OF NON-HUMANS: A HURDLE TO SUSTAINABLE DEVELOPMENT GOAL

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ABSTRACT

Wildlife trafficking has become a global menace and illegal trafficking of some endangered species from India are also rising. Organized crime of wildlife smuggling

is one of the most profitable criminal enterprise in the world. Goal 15 of the Sustainable Development Goals, 2030, urges the member states to take urgent action to reduce the loss of natural habitats and biodiversity which are part of our common heritage. Wildlife trafficking is culpable as it is shameful for humans when they fail to save the lives and rights of voiceless beings. CITES is an international agreement to protect endangered species of plants and animals. In spite of various laws and conventions to protect wildlife the cases are increasing. Over-exploitation of species affects the natural environment. Further prevention of poaching and wildlife trafficking is required to preserve the natural species for our future generations so that they too can enjoy the wonders of nature. It is a proposed supposition that reduction in illegal wildlife trade shall help in achieving sustainable development goal. This research will be a doctrinal one backed by secondary source of empirical data. This research will focus on measures and suggestions to combat illegal wildlife trafficking at national and international level. Further this research will study how technology can assist humans in curbing victimization of non-humans in this digital era.

Keywords: wildlife trafficking, victimization, sustainable development, organized crime, biodiversity, endangered species, poaching.

INTRODUCTION

Wildlife trafficking is a transnational environmental crime which is posing hindrance to SDG specific target to end poaching and trafficking of endangered species of fauna and flora. SDG document also aims at enhancing global cooperation to combat poaching and trafficking of protected species. The term 'wildlife and forest crime' refer to “the taking, trading (supplying, selling or trafficking), importing, exporting, processing, possessing, obtaining and consumption of wild fauna and flora, including timber and other forest products, in contravention of national or international law. Broadly speaking, wildlife and forest crime is the illegal exploitation of the world's wild flora and fauna” (UNODC, 2019).

The term sustainable development means meeting the needs of the present generation without compromising the needs of the future generations. The ruthless exploitation of nature and ecosystem will deplete the naturally occurring resources of the earth and the future generations will be deprived to enjoy the beauty of the protected species of flora and fauna. So as a matter of fact an increase in illegal trade and poaching of wildlife will directly result in slowdown of the process of sustainable development. Besides being a hurdle to SDG-14 which aims at conservation of life below water, and SDG- 15 which aims at sustainable use of terrestrial ecosystems and halt biodiversity loss wildlife trafficking is violating the rights of non-humans also. SDG Target 15.7 urges countries to “Take urgent action to end poaching and trafficking of protected species of flora and fauna and address both demand and supply of illegal wildlife products”. Target 15.7 envisages immediate reduction in wildlife trade to curb this organised crime.

Criminal networks are spread throughout the world which use affiliation of corrupt officials and intimidation of publicly registered companies to carry out import and export of illegal wildlife without detection. Airports and seaports are hubs for illegal wildlife trade from Africa, Europe and the Americas. It is difficult to monitor the border of countries sharing boundaries with many islands and this facilitates transit of illegal wildlife and wildlife products. The proceeds of wildlife crimes flow through the global financial system, with profits placed into the bank accounts and properties of criminal enterprises, and these profits are in turn utilised to further re-finance the next bribe or transport arrangement of endangered species. Illegal wildlife trade is inherently unsustainable. The illegal killing and trading in endangered species distorts biodiversity and adversely affects the scope of long-term, sustainable economic development.

According to the UN Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) report, “biodiversity and ecosystem functions and services, are deteriorating worldwide”, posing a long-term threat to humanity’s wellbeing (IPBES, 2019).¹

The issue of wildlife trafficking is not limited to hurdle to sustainable development goal. Cruelty to animals and violence towards people have something in common as in both the cases the victims are living beings who can feel pain, experience distress, and may die from severe injuries. A correlation exists between animal abuse, family violence, and community violence. It has been found out by researches that people who commit acts of cruelty towards animals in some cases such people have the tendency to abuse their spouse, children and aged parents. Animal rights advocate that certain things are wrong as a matter of moral principle. Human beings must deter themselves from those things. It is responsibility of the human race to provide protection to lower beings and to protect their rights at any cost. Victimization of non-humans is a heinous green crime. Previously the criminal justice system was only concerned with human victims but now with the increase in crime against animals green victimology has come into picture. So, it is pertinent to discuss the extent of protection given to endangered species and to propose solutions to curb this issue.

GLOBAL SCENARIO ON WILDLIFE TRAFFICKING

Illegal wildlife smuggling, trade fraud, corruption and money laundering are matters of grave concern among the international community. Poaching, loss of habitat and illegal consumption are threatening the existence of many species. Sometimes wildlife and marine life are killed for sheer pleasure also. Numerous Asian species fall prey to illegal wildlife traffic markets every year even though public awareness of the plight of African Elephant and black Rhino is relatively high. The Asian Elephant population has declined by 50% over the past century. The four species of Asian pangolins, Southeast Asian birds such as the helmeted hornbill and Asian rhinos are critically endangered.²

According to the World WISE Database nearly 6,000 species have been seized between 1999-2018, including mammals, reptiles, corals, birds, and fish. There are suspected traffickers of

¹OECDilibrary, The Illegal Wildlife Trade in Southeast Asia : Institutional Capacities in Indonesia, Singapore, Thailand and Viet Nam, (Nov.16,2020, 11:00 A.M), <https://www.oecd-ilibrary.org/sites/3f3a7a6c-en/index.html?itemId=/content/component/3f3a7a6c-en>

²Ibid

some 150 nationalities thereby highlighting the fact that wildlife crime is a global issue. Illegal wildlife markets do not strictly deal with biological categories, some markets use multiple species. For instance pythons are illegally taken for being used as pets, for their skins to make handbags and shoes, for meat and for organs to make traditional medicine. So the markets may be comprised of multiple species or just part of one particular species that too from a limited geographic area.³

Traffickers in illegal wildlife are highly specialised. Mostly wildlife trafficking feed on illicit retail markets, some also feed on licit trade. Licit trade can get corrupted by introduction of illegal supply. Open street markets where protected species-products are openly displayed are a reality now. However these markets do not account for the volumes of wildlife illegally harvested each year. Some groups are involved in smuggling multiple species. In last few years large volumes of ivory and pangolin are being shipped thereby indicating a clear merger of these markets. However according to World WISE most shipments comprise of single species.⁴

Fig. 1 : Number of seizures in World WISE by year



Source: UNODC World WISE Database

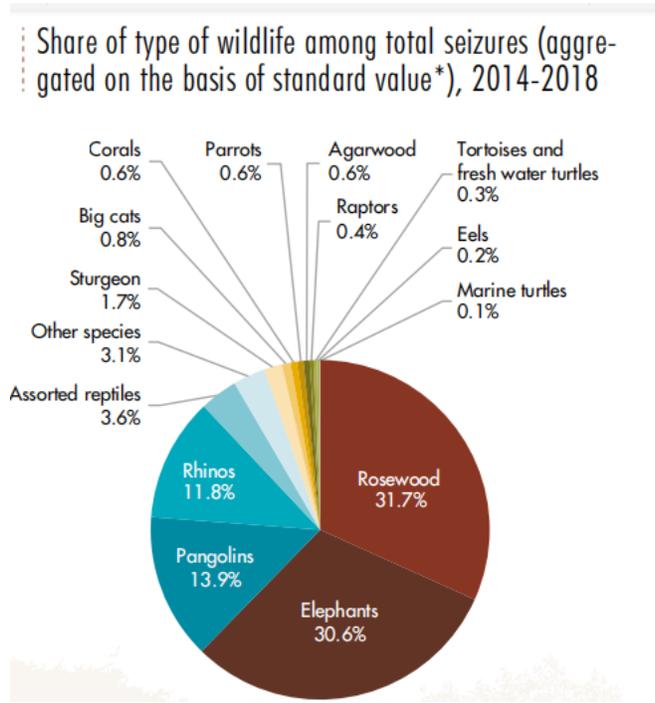
* At the time the data processing for this report was finalized, the data collection for seizures made in 2018 was not yet complete.

³ UNODC, World Wildlife Crime Report 2020, United Nations Office on Drugs and Crime, 2020 (Nov.16,2020, 02:15 P.M), https://www.unodc.org/documents/data-and-analysis/wildlife/2020/World_Wildlife_Report_2020_9July.pdf

⁴Ibid

From this data it is clear that seizure was less in the beginning of the century. Seizures was less in 2014 and 2015. Number of seizures was highest in 2017 i.e 20,762.

Fig.2



Source: UNODC World Wise Database

According to this pie chart the rate of seizures of elephants, rosewood and pongolins are very high. These endangered species need more protection specially pongolins which are on the verge of extinction.

The hotspots for mammal trade are in Africa and Southeast Asia, and trade hotspots for reptiles are in Australia and Madagascar .Wildlife pet trade flourishes in the tropics and product trade flourishes in tropical Africa and Southeast Asia.⁵The trade involves of wild plants and animals from more than thousands of species. There are records of over 100 million tonnes of fish, 1.5 million live birds and 440,000 tonnes of medicinal plants illegally traded in one year. ⁶

Effects of illegal wildlife trafficking:

1. Overexploitation of species to the point of extinction. With the increase in human population the demand for wildlife has also increased. Wildlife trafficking also affects the livelihood of humans as rural households mostly of developing countries depend on local wild animals for meat and local trees for fuel and plants for their traditional medicinal value.
2. Illegal wildlife trafficking harms the balance of nature by causing imbalances in the whole ecosystem.
3. In illegal wildlife trafficking animals are obtained with cruelty and transport conditions of live animals are worse. Illegal trade also disturbs countries' efforts to protect their natural resources.
4. Poaching of endangered species sometimes result in incidental killing of non-target species such as dolphins and seabirds.
- 5.Introduction of invasive species by wildlife traders is another threat to the balance of nature.

INTERNATIONAL INITIATIVES TO CURB ILLEGAL WILDLIFE TRAFFICKING

The International Consortium on Combating Wildlife Crime (ICWC) is the collaborative effort of five inter-governmental organisation working to bring coordinated support to the national wildlife law enforcement agencies and to the sub-regional and regional networks act in defense of natural resources. The partner agencies to ICWC are the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) Secretariat, INTERPOL, the United Nations Office on Drugs and Crime (UNODC), the World Bank and the World Customs Organization (WCO). The officers from national agencies are responsible for wildlife law

⁵Express News Service, 1 in 5species: study looks at scale of global wildlife trade (Nov.18,2020,05:00 P.M)
<https://indianexpress.com/article/explained/global-wildlife-species-market-trade-research-6054182/>

⁶WWF DISCOVER, Second-biggest direct threat to species after habitat destruction (Nov.18,2020, 06:45 P.M),https://wwf.panda.org/our_work/our_focus/wildlife_practice/problems/illegal_trade/

enforcement and ICCWC works directly with these authorities to support them, providing them with proper mechanism, services and technical support needed to effectively combat wildlife and forest crime.⁷

CITES covers more than 5,600 species of animals. Parties to CITES appoint an enforcement authority to regulate the trade and sale of animal products through permits and licenses. ASEAN group of nations has established an ASEAN CITES enforcement group. Under CITES, Parties have to decide whether to levy civil or criminal penalties at national level in order to enforce the Convention. The Convention on transnational crime is the principle international legal framework to combat organized crime across borders. This Convention contains several provisions that require Parties to provide for domestic criminal offences in conjunction with international crimes.

However only implementation of specific legal provisions of international conventions will not be effective in achieving the intended objectives of the Conventions, the actual effectiveness of these conventions are measured in the number of successful prosecutions that have benefitted from evidence received or transmitted through Mutual Legal Assistance Treaty. Similarly, the United Nations Convention against Transnational Organised Crime UNTOC's effectiveness is ascertained by the number of cases handled by joint investigations and joint operations related to serious transnational organized crime involving wildlife trafficking.⁸ The OECD could not ascertain the number of cases and prosecutions that made use of tools under these legal frameworks. There are a number of gaps present which prevents the effective implementation of such national and international laws.

End Wildlife Crime, hosted by the ADM Capital Foundation, is an alliance of individuals and organisations supportive of law reforms relating to wildlife crime. Transformative change in international laws is necessary to address global biodiversity, climate, development, public and animal health challenges.

⁷CITES, The International Consortium on Combatting Wildlife Crime (Nov.19,2020, 03:35 P.M),https://cites.org/eng/prog/iccwc_new.php

⁸OECDilibrary, The Illegal Wildlife Trade in Southeast Asia : Institutional Capacities in Indonesia, Singapore, Thailand and Viet Nam, (Nov.19,2020, 07:05 P.M),<https://www.oecd-ilibrary.org/sites/bb3eae76-en/index.html?itemId=/content/component/bb3eae76-en>

These objectives are being advanced by:

- a) “advocating for the adoption of a fourth Protocol on wildlife crime under the UN Convention against Transnational Organised Crime; and
- b) amending the Convention on International Trade in Endangered Species (CITES) to include public health and animal health criteria into the Convention’s decision-making processes.

The two reforms are inter-related but not inter-dependent. New regulations on the trade in wildlife, including possible new trade bans on health grounds and bans on certain high-risk markets and consumption, will require a scaled up, cooperative global enforcement effort.”⁹

U.S Position

The U.S National Strategy for Combating Wildlife Trafficking establishes guiding principles to curb illegal trade in wildlife. This Strategy makes United States a stalwart in addressing a serious global security threat. National Strategy for Combating Wildlife Trafficking strengthens laws and international agreements that protect wildlife and reduces demand for illegal wildlife products. This strategy affirms Nation’s resolution to work with governments, local communities, non-governmental organizations, the private sector, and others to strengthen commitment to combating wildlife trafficking.¹⁰ The Eliminate, Neutralize, and Disrupt Wildlife Trafficking Act (P.L. 114-231) (the “END Act”) directs the Presidential Task Force on Wildlife Trafficking to submit an annual strategic review and assessment of its work relating to “review and assessment of implementation of the Act; evaluation of the role of governments of Focus Countries; a description of Task Force priorities and objectives; an accounting of U.S. funding for CWT; and recommendations for improving U.S. and international efforts to prevent wildlife trafficking in the future.”¹¹

INDIAN SCENARIO ON COMBATING WILDLIFE TRAFFICKING

⁹End Wildlife Crime, Addressing Serious Gaps in International Law (Nov.19,2020,08:42 P.M), <https://endwildlifecrime.org/>

¹⁰ NATIONAL STRATEGY FOR COMBATING WILDLIFE TRAFFICKING (Nov.21,2020, 04:10 P.M), <https://obamawhitehouse.archives.gov/sites/default/files/docs/nationalstrategywildlifetrafficking.pdf>

¹¹BEREAU OF OCEANS AND INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS, 2019 END Wildlife Trafficking Strategic Review, U.S Department of State (Nov.21,2020,05:24 P.M), <https://www.state.gov/2019-end-wildlife-trafficking-strategic-review/>

On June 21, 2020, Kolkata airport officials arrested a man with exotic macaws and parrots of South America and New Guinea. The birds were smuggled from Bangladesh, and headed for Bengaluru. The expansion of the air transport sector in India including 23 international airports has prompted wildlife traffickers to smuggle endangered and exotic live animals, plants, and their body parts thereby posing direct threat to the survival of species after habitat destruction.¹²

Under Article 51A (g) of the Constitution of India, “it is a fundamental duty of every citizen of India to protect and improve natural environment including forests, lake, rivers and wildlife and to have compassion for living creatures.”

The Wildlife Protection Act, 1972, is the principle act of India for protection of animals. This Act regulates the hunting of wild animals, protect specified plants, sanctuaries, national parks and closed areas, restrict illegal trade and commerce in wild animals. Section 39 of this act states that any wild animal hunted, bred, fed, found, killed, alive or dead shall be property of a State Government while Section 9 prohibits hunting of wild birds. Animals which are poached and illegally traded are also protected under various schedules of this Act.

In *GR Simon v. Union of India*¹³, the petitioner, a businessman dealing with leather material made out of snake skin questioned the validity of the Wildlife Protection Act and argued that it is a colourable legislation which is challenging the fundamental right under Article 19 (1) (g) to carry out any trade and commerce freely. So, in this case Delhi High Court under WPA, 1972 (1991 Amendment) stated “that any activity which is against public interest and cause harm to society is prohibited and animals are very important part of our natural society thus they should be protected. Hence, Wildlife Protection Act, 1972 (1991 Amendment) is completely constitutional.” Section 50 of WPA authorizes the Director, or the Chief Wildlife Warden or any officer authorized to arrest any person without warrant and detain him, if the arresting officer has reasonable grounds to believe that such person has committed an offence against the WPA. Section 51(1) of the WPA stipulates that any person contravening any provision of this Act or any rule shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to twenty-five thousands rupees or with both.

¹²Mahima A. Jain, How wildlife is trafficked by air in and out India, Science THE WIRE (Nov.21,2020,06:44 P.M),<https://science.thewire.in/environment/india-wildlife-trafficking/>

¹³ AIR 1997 Del. 267

Sections 428 and Section 429 of Indian Penal Code, 1860 states that killing, poaching, maiming, poisoning or torturing an animal is a cognizable offence and the punishment for such act is rigorous imprisonment which may extent to five years or fine or both.

The Ministry of Environment, Forest and Climate Change has released new Gazette notifications under the Prevention Of Cruelty to Animals Act, 1960 to regulate Dog breeding, Animal Markets, Aquarium and Pet shop owners. Various cruelties by which animals are victimised will no longer be allowed as any crime against animals is punishable with imprisonment and fine. The Prevention of Cruelty to Animals Act 1960 restricts the exhibition and training of performing animals, without registration under the provisions of this Act by the person wanting such exhibition and training of performing animals. The Central Government has by notification in the Official Gazette restricted the exhibition and training of bears, monkeys, tigers, panthers and lions. The Performing Animals Rule, 1973 and The Performing Animals (Registration) Rule, 2001 provide for application of registration by any person desirous of training or exhibiting performing animals has to apply for registration to the prescribed authority. Without such registration a person is not allowed to exhibit or train any animal as a performing animal. Some other noteworthy acts and rules are Transport of Animals Rules, 1978, Local Municipal Corporation Acts; Experiments on Animals (Control and Supervision) Rules, 1968, The Prevention of Cruelty to Animals (Slaughter House) Rules, 2001 and The Prohibition of Bird and Animal Sacrifice Act. There are various organizations working with the Government to safeguard wildlife, one of the largest organization is People for the Ethical Treatment of Animals (PETA).¹⁴

The Biological Diversity Act, 2002, provides for conservation of biological resources and sustainable use of its components, fair and equitable sharing of the benefits arising out of the use of biological resources. Under the Export-Import Policy of India, import and export of any species of wild fauna is prohibited. All cases of violation of the Export-Import Policy constitute an offence under the Customs Act which are handled by the Customs officials.¹⁵

India launched an app called Hejje that allows rangers to use smartphones to track tiger movements. TRAFFIC India pioneer the training of the sniffer dogs for wildlife protection in

¹⁴Shreya, Illegal Trafficking and poaching laws in India, Legal Service India (Nov.22,2020, 10:00 A.M), <http://www.legalserviceindia.com/legal/article-1410-illegal-trafficking-and-poaching-laws-in-india.html>

¹⁵WWF Newsletter 2014, Illegal Wildlife Trade in India (Nov.22, 2020, 11:10 A.M), http://awsassets.wwfindia.org/downloads/traffic_panda_8_oct.pdf

India since 2008, these sniffer dogs are very significant anti-poaching and anti-trafficking tool because of their ability to search large areas by their powerful smell thereby leading enforcement officers to consignments of illegal wildlife products. Along with the dog squad, TRAFFIC India and WWF, in collaboration with government agencies, have strengthened their training programs for law enforcement officers and forest personnel also.¹⁶

SUGGESTIONS

Some ways by which technology can help in decreasing wildlife trafficking are as follows:-

1. DNA analysis allows investigators to trace the origins of illicit ivory and focus on enforcement on high-risk areas. DNA barcoding is a mechanism by which species from very small fragments of genetic material can be identified.
2. Thermal imaging is useful in tracking illegal entry into protected areas as patrolling vast and remote landscape is not feasible. Thermal imaging can distinguish between natural movement and human motion.
3. Simple technology upgrades can be adopted by countries similar to Kenya, which has replaced its two-way radio network which is prone to interference with a digital radio network that allows rangers to have secured communication over long distances, coordinate with headquarters, and respond faster to poaching incidents and illegal park entries.
4. GPS smartphone tracking devices is another way by which data can be transmitted on the animals' locations and movements via satellite or local cell phone networks.
5. Crowdfunding can be efficient in combating wildlife crime as crowdfunding pools money from various sources to buy tools like drones to spot poachers and to provide for necessary amenities like anti-poaching training, vehicles, uniforms and weapons to increase ground patrols.

Some other measures are:-

¹⁶ Apoorva Joshi, India steps up efforts to combat wildlife trade, Mongabay (Nov.22, 2020, 03:18 P.M), <https://news.mongabay.com/2015/10/india-steps-up-efforts-to-combat-wildlife-trade/>

6. Countries should develop an international framework for reporting standards after consulting with relevant experts and officials. This framework should look beyond seizure incidents and should include reports on performance and statistics could include the number of successful prosecutions and value of assets seized.

7. Countries and international communities should continue supporting NGOs and International Organisations throughout the enforcement process. To enhance trust and abilities to share operational information across borders with source countries, working-level meetings are necessary to facilitate closer ties and operational exchanges among law enforcement officials.

8. The communication between central government agencies and key decision makers should be increased to strengthen political will to tackle the illegal wildlife trade. This should involve criminal justice officers and judges, national development agencies, public security ministries, ministries of finance and revenue, and financial intelligence units.¹⁷

CONCLUSION

There is no fixed definition of wildlife crime this is posing challenge to enforcement authorities. Transnational crimes are fueled by corruption at domestic and international level. Smuggling involves CITES permit forgery and fraud, simple concealment and transportation techniques and in some cases diplomatic personnels are involved. Smuggling is also facilitated by statutory flaws covering CITES permit transfers and the extensive corruption of law enforcement and conservation officers. The crime towards endangered species is more than just a conservation problem affecting only wildlife rather than people. This crime has serious far reaching effects. Wildlife trafficking is the most lucrative form of transnational criminality. The uncontrolled exploitation of wildlife, marine life affects far more than flora and fauna and represents a serious threat to the economic stability of any nation that relies on these resources as a source of income.¹⁸

¹⁷OECDlibrary, The Illegal Wildlife Trade in Southeast Asia : Institutional Capacities in Indonesia, Singapore, Thailand and Viet Nam, (Nov.24,2020, 04:55 P.M) <https://www.oecd-ilibrary.org/sites/5704764f-en/index.html?itemId=/content/component/5704764f-en>

¹⁸Greg L. Warchol (2004) The Transnational Illegal Wildlife Trade, Criminal Justice Studies, 17:1, 57-73, DOI: 10.1080/08884310420001679334

This type of organised crime thrives on the demand for wildlife products in distant locations, and this results in largescale slaughter of wildlife. This organised crime poses threat to state integrity, governance and human security. Effective and concerted efforts must be made to reduce demand for wildlife and wildlife products at consumer market. As noted by the Small Arms Survey 2015, 'Without a substantial reduction in the demand for ivory and rhino horn, efforts to deter poachers ... may disrupt poaching, but [will] not stop it'. Local communities complicit in poaching by providing information on access routes to poachers specially in communityrun reserves and thus thwarts the initiative of wildlife conservation by local ownership. It is clear that good governance and the fight against corruption, at all levels, must form a core part of the agenda to address poaching and wildlife trafficking to ensure sustainable development of biological resources.