

Policing Wildlife

Middlesex University London

Perspectives on the Enforcement of Wildlife Legislation



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Definition of Environmental Crime

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An unauthorized act or omission that violates the law and is therefore subject to criminal prosecution and criminal sanctions. This offence harms or endangers people's physical safety or health as well as the environment itself. It serves the interests of either organizations – typically corporations – or individuals.

(Situ and Emmons, 2000: 3)

Purpose of Wildlife Law



Four key themes:

- **Control** – killing and management of wildlife so it does not interfere unduly with human interests
- **Exploitation** – use of wildlife as a valuable natural asset
- **Protection** – prohibition of acts which harm individual animals beyond a permitted level.
- **Conservation** – *Res nullius* or *res communis* - Implementing the public good and wildlife trust doctrines

(Nurse 2015; Vincent 2014)

Contemporary Wildlife Crime Problems



- Damage or destruction of wildlife habitats
- Global Illegal trade in wildlife worth between \$10 billion and \$20 billion (South and Wyatt, 2011)
 - timber trafficking
 - exotic plants
 - parts and derivatives
- Killing taking or possessing wildlife
- Illegal animal exploitation and abuse – e.g. illegal fox hunting, killing of seals etc. killing linked to sporting interests, badger baiting, badger digging
- Taking or possessing wild birds eggs

Contemporary Wildlife Criminality



- Unlawful killing or wounding
- Robbery (taking from the wild)
- Disturbance of a protected species
- Cruelty and animal welfare offences
- Unlicensed (and unlawful) gambling
- Damage to property and trespassing
- Illegal, poisoning and unlawful storage and/or use of pesticides
- Theft and handling of stolen goods
- Deception
- Fraud and forgery
- Criminal damage (of protected sites)
- Firearms related offences



	Problem	Solution
Environmental Rights and Justice	Illegal Use or exploitation of environment	Environmental rights as an extension of human or social rights
Ecological Citizenship and ecological Justice	Ecological harm and destructive human interventions	Protect the biosphere and nonhuman species
Animal Rights and Species Justice	Discriminatory treatment and/or abuse of animals	Prosecute and legislate against speciesism. Give legal rights or better legal protection for animals <small>6</small>

The Legislative Background



- Policy and 'purpose' of legislation driven by NGOs
- Species specific legislation: e.g. in the UK Protection of Badgers Act 1992, Conservation of Seals Act 1970
- EU driven general legislation: e.g. Wildlife & Countryside Act 1981, CRoW & CITES Regs
- Devolved legislation (e.g. Scotland) sometimes affords different protection

Green Criminological approaches to Law and Justice



- Socio-Legal approach – emphasis on use of current criminal law
- Regulatory Approach – Emphasis on social regulation (self-regulation and use of NGOs for regulation)
- Social Action Approach – Emphasis on fundamental change, social transformation.

Perceived Problems – 1



- Varying and inconsistent legislation (penalties, powers of arrest etc)
- ‘Voluntary and inconsistent’ law enforcement
- Lack of statutory recording
- Driven by NGO priorities
- Responsibility of DEFRA not MOJ or Home Office
- Lack of resources

Global Wildlife Enforcement Issues



- Law Enforcement Perspective dominates
- Enforcement is (mostly) reactive and dependent on sparse resources
- State authorities varied enforcement approaches
 - Customs Officers, CITES Management Authorities, Environment agencies & NGOs
- Organised, transnational and cross border crime
 - e.g. multiple use for ‘trade’ routes.
- Deterrence through apprehension & detection and subsequent publicity but.....

Perceived Problems 2 – Enforcement Policy Issues



- Wildlife legislation and wildlife crime is generally viewed as an environmental issue...
- NGO involvement isolated from mainstream criminal justice
- Wildlife law enforcement still under-resourced and a largely/voluntary or ad-hoc in many countries.
- Globally corruption is a significant factor....
- Organised crime and armed militias operate in the illegal wildlife trade and law has struggled to keep pace with new challenges and scale of wildlife crime problems

Types of Offenders



- Model A - Classical/Traditional i.e. direct financial gain
- Model B - Economic
- Model C - Masculinities and expression of identity
- Model D – Hobby: high status low level, no financial motive.
- Model - Stress Offenders – responding to their own victimization

Model B - Economic

- Wildlife crime driven by economic and social pressures
- External factors a cause – e.g. keeping employment
- ‘White-collar’ element - offenders otherwise law-abiding, may co-operate with police elsewhere
- Rationalisations: responsibility of others, necessity, victimless crimes, technical or minor nature, resources should be targeted elsewhere
- Wildlife considered to be a minor or technical crime

Contemporary Challenges – The UK Law Commission’s Wildlife Law reform proposals.....

- “*a single statute which covers the species-specific law on the conservation, protection and exploitation of wildlife. Many of the problems with the current legal regime arise because the governing provisions are strewn across various enactments*”
- “*Our view remains that civil sanctions would provide a flexible and proportionate system which would encourage greater compliance without requiring adversarial and stigmatising criminal prosecutions.*”

(Law Commission Interim Statement,
October 2013)

Prosecuting Wildlife Crime: A Contemporary Challenge



'The Judiciary is environmentally myopic' (Lord Woolf) and there are numerous practical problems

- Lack of available scientific support
- Lack of specialist wildlife and legislative knowledge
- Perceived loopholes in legislation
- Difficulties in bringing cases to court due to lack of prosecutorial expertise
- Effective transnational justice is questionable.....
- Use of available sentences is usually at the lower end of the scale

(Nurse, 2015:146; National Audit Office, 2006; Woolf, 1992)

Lenient Punishment



- Some wildlife offences are arrestable, some are not
- Some wildlife laws carry imprisonment, some do not
- Wildlife crime is socially constructed
- Anthropocentric justice notions dominate
- Prosecutorial discretion sometimes means that civil penalties dominate
- Some wildlife crime is seen as business/technical/regulatory and corporate law allows for many legal delays
- Fines are not comparable with other offences

Conclusions & Recommendations



- Statutory recording of wildlife crime
- Wildlife Crime as mainstream criminal justice (i.e. Home Office/MoJ); and/or a specialist EU Fish & Wildlife Service?
- Legislation broadly adequate enforcement is the “problem”
- But case for implementing legislative review to:
 - ensure consistency of police powers, protection and sentencing options
 - close loopholes
- Introduction of specialist wildlife prosecutors & wildlife crime units
- Different approach for different offenders - consider and address cultural factors, masculinities, links with other crimes e.g. interpersonal violence
- Restorative Justice and other alternatives?

Any Questions?



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