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Animals Make a Better World

Wildlife Crime and Animal Victims: Improving Access to Justice in Hong Kong

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Demand for wildlife products in Asia

Illegal trade in wildlife is one of the most significant environmental challenges today

Demand for wildlife products (particularly for traditional Chinese medicine) is growing

Hong Kong as a gateway to China and other Asian countries

Recent amendment to HK's *Protection of Endangered Species of Animals and Plants Ordinance, Cap 586*



Source: Customs and Excise Dept, Hong Kong

A victimless crime?

Seizures > \$100 million per annum

Anthropocentric views of harm

Laws designed to preserve natural resources for human benefit

Main function of international instruments is to define notions of harm and criminality rather than promote the health and well being of wild animals

Speciesism in the application of justice

International treaties (CITES, Convention on Biological Diversity) are limited by their conservation objectives

Criminality is based on the level of threat to the species and their ecological value

Limited requirement for parties to recognise/penalise the welfare harms to wild animals caused by trade

Cruelty laws to fill the lacuna?

Cruelty protections routinely applied to other animals are not afforded to wild animals under international conservation instruments

No power to charge offenders for cruelty suffered in other jurisdictions

Limited understanding of the nature and extent of harms caused to wild animals in trade and transport limits the likelihood domestic cruelty charges are laid in prosecutions

Who can be a victim?

Widening definitions of 'victim' have allowed for recognition of harms to victims even where no prosecution has been initiated/no conviction has been recorded

Environmental crimes challenge socially constructed notions of who may be a victim however animals lack standing under the law

Harms to individual animals, species or ecosystems may be taken into account in deterrent sentencing of the defendant or through ancillary compensation/restoration orders and forfeiture

An alternative view: Green Criminology

Eco-justice: humans are just one part of complex ecosystems

Species justice: protect the animals within the ecosystems by recognising both:

- direct harms to animals in poaching and trade

- harm to ecosystems through habitat degradation and removal of species

Need for reliable data

Limited understanding in the criminal justice system of harms caused by wildlife crime impedes deterrent sentencing

Data on the impact of crime on wider species groups and ecosystems is poorly understood

Lack of studies of welfare requirements for rare species

Robust and accessible scientific data is required for objective sentencing for harm to animals caused by capture methods, holding facilities and transport conditions

The Scottish VIS Model

Practical use of victim impact statements for animals and ecosystems provided by NGOs to prosecutors

Acceptance and use of the statements by the judiciary

Call in the *Wildlife Crime Penalties Review Group Report* for statements to be provided with a legislative footing

Support for increased use of impact statements by the Scottish Government

Hong Kong's role as a wildlife trade hub

Over 40 tonnes of illegal ivory imports seized in HK since 2000

Continuing ivory market until 2021

Over 60 tonnes of pangolin scales (>100,000 animals) seized in HK since 2013

Over 22,000 tonnes of live reef fish per annum, no duty to inspect

Hong Kong's wildlife trade impact statements

Impact statements prepared for HK's most smuggled species:

- IUCN Red List category
- Ecosystem impact through exploitation
- Population depletion and food chain effects
- Current monetary value on the black market
- Welfare concerns in transport
- Invasive species, disease and pathogen concerns

Expert witnesses

Utilising a multidisciplinary approach

Utilising current practices in the criminal justice system, it is possible to recognise animals, species and ecosystems as 'victims' of wildlife crime

Effective translation through a multidisciplinary approach

Collaboration between:

The University of Hong Kong (Law Faculty, School of Biological Sciences)
Kadoorie Farm and Botanical Garden, Hong Kong

Conservation science can be used to inform sentencing and improve access to environmental justice

THANK YOU

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