



Is Hong Kong beginning to take wildlife crime seriously?

The illegal trade in flora and fauna is valued at USD7-23 billion by OECD, UNODC, UNEP and INTERPOL (<http://www.unep.org/unea/docs/RRACrimecrisis.pdf>). It is considered by leading enforcement agencies as one of the largest transnational organised criminal activities alongside drug, arms and human trafficking. The destination for most of the contraband is Asia, where growing affluence has fueled an unprecedented rise in the demand for threatened species. China speaks for a significant proportion of this demand with much emphasis placed on owning objects like ivory and rhino horn as a display of wealth and in the case of the latter, for somewhat unfounded medicinal purposes.

Criminal syndicates have long used Hong Kong as a smuggling route, and wildlife is no exception. The border between China and Hong Kong sees the highest number of CITES (Convention on International Trade in Endangered Species of Wild Flora and Fauna) seizures than any other border in China. However, with Customs estimating they only seize about 10% of contraband, the numbers of endangered species smuggled across this border is likely astronomical (<http://www.adb.org/publications/symposium-combating-wildlife-crime-proceedings>). Unfortunately, when a seizure is made at the border, the likelihood of effective prosecution and deterrent sentencing is low. As a result, criminals see the risk of being caught and the possible penalties they may incur as no more than a standard business cost that can be offset easily.

In response to this problem, ADM Capital Foundation organised a legal seminar where wildlife crime could be discussed in a forum with both government and non-government agencies, together with relevant individuals and enforcement experts. Hosted by the University of Hong Kong's Faculty of Law on Saturday 19 March, the seminar clearly highlighted the need for legislation change alongside greater awareness of the judiciary as regards the value of wildlife contraband and impact of wildlife crime.

Two renowned keynote speakers provided two distinct perspectives on the illegal wildlife trade. John Sellar OBE, independent anti-smuggling, fraud and organised crime consultant and former CITES Chief Enforcement Officer, provided an intriguing insight into the illegal trade, emphasizing that it is first and foremost a crime and should be treated as such by governments. While it is not being addressed effectively, violent and corrupting criminals the world over are escaping justice. Christine Loh, HKSAR Government's Undersecretary for the Environment, noted that the Administration will indeed endeavor to increase penalties.

The second keynote speaker, Valmik Thapar, an expert on tigers and an influential and active campaigner of wildlife in India, was awe-inspiring. He provided the emotive and reverent angle, using stunning video footage to iterate just how close to extinction one of the planet's most iconic species is.

This was followed by presentations from members of Hong Kong's Customs and Excise Department, Agriculture, Fisheries and Conservation Department, Department of Justice and an Associate Professor from HKU's Faculty of Law. They presented an overview of the situation in Hong Kong, frankly and honestly, and in doing so clearly pointed to where work is needed.

In particular, Hong Kong's shortcomings in its CITES-implementing legislation were highlighted. Its penalties are significantly lower compared to other countries and its maximums are rarely enforced. For a CITES violation in Hong Kong, the maximum period of imprisonment is 2 years, but Indonesia enforces 5 years, India 7 years and Australia 10 years. Its fines, however, can extend to HKD5,000,000.

Nevertheless, as an example, the Department of Justice described a case where a fine of just HKD5000 was imposed for smuggling Shahtoosh shawls worth HKD240,000. Produced from the fur of the rare Tibetan Antelope, the international trade of Shahtoosh shawls has been banned since 1979 and the species currently is at risk of extinction because of this trade (<https://cites.org/eng/res/11/11-08R13.php>). Nevertheless the Department somewhat questionably found this an appropriate remedy.

There are only limited offence provisions to tackle wildlife crime in Hong Kong, which at present fall under the purview of the Protection of Endangered Species of Animals and Plants Ordinance (Cap 586) and the Import and Export Ordinance (Cap 60), neither of which have the powers to effectively investigate and prosecute serious organised wildlife crime. If wildlife crime fell under the auspices of both serious and organised crime (which by definition for the most part it is), police involvement would be required. Currently the Hong Kong Police Force is rarely involved in wildlife crime cases. As such, very little criminal investigation is carried out when a seizure occurs, so the real perpetrators of the crime are rarely, if ever, caught and punished; and thus the trade goes on. A seizure may then not surprisingly be considered a low risk business cost.

The morning was regarded as having been a considerable success. The speakers made a compelling case as to why Hong Kong needs to do more to ensure the punishment fits the crime; and towards the end a representative of the United Nations Office on Drugs and Crime (UNODC) revealed that they are currently in dialogue with the HKSAR government as to how it might support the region on this issue. With Ms Loh's declaration on the government's intention to address low penalties, it seems Hong Kong may be open to finally taking wildlife crime seriously.

Emily Botsford, March 2016