

ENFORCEMENT AGAINST WILDLIFE CRIMES IN WEST MALAYSIA: THE CHALLENGES

MARIANI ARIFFIN

Environmental Forensics Research Centre, Faculty of Environmental Studies, Universiti Putra Malaysia, 43400 UPM Serdang, Selangor, Malaysia.

*Corresponding author: marianiho@upm.edu.my

Abstract: This paper investigates challenges facing the enforcement of wildlife conservation law in West Malaysia. The study used information stemming from desk-based research and interviews with key informants from wildlife enforcement agencies as well as several environmental NGOs. The interviews were carried out using semi-structured questions to examine key informants' views about the main challenges hampering the effective enforcement of wildlife conservation law in the region. The study revealed that all interviewees concur that insufficient institutional capacity in terms of manpower, skills and equipment is the main challenge to wildlife enforcement. Other major challenges were public cooperation as well as inter-agency cooperation and coordination. Apart from that, respondents from NGOs perceived lack of political-will as another major challenge facing the enforcement of wildlife conservation law, though no mention of this was made by the enforcement agencies. The study provides practical insights into some aspects of the enforcement challenges of wildlife conservation in West Malaysia. These insights may help decision-makers at the local and national levels to consider some measures to overcome the challenges faced by the wildlife enforcement agencies to ensure better wildlife conservation in general.

Keywords: Wildlife, conservation, enforcement, challenges, West Malaysia.

Introduction

Malaysia passed the International Trade in Endangered Species Act 2008 (INTESA) to control international wildlife trade and the Wildlife Conservation Act 2010 (WCA) to replace the old Protection of Wildlife Act 1972 to provide for the protection and conservation of wildlife in general. INTESA and WCA are lauded for providing stiff penalties (Perimalu 2010a). Nevertheless, no matter how impressive these laws are, they can only be as good as their enforcement. In the environmental context, 'enforcement' has been described as "the set of actions that governments or others take to achieve compliance within the regulated community and to correct or halt situations that endanger the environment" (Wasserman, 1992). With regard to wildlife crimes, other than illicit wildlife trade which most often are associated with unlawful commercial trade and smuggling activities, the crimes also include criminal activities such as unlawful taking or killing or wounding of protected wild species, trespassing of protected areas, cruelty and other animal welfare offences, illegal poisoning, fraud or forgery and so on (Nurse, 2011). Therefore,

enforcement of wildlife conservation involves actions to stop such activities and ensuring people comply with prohibitions or controls as required under any legislation.

According to Mancini *et al.*, (2011), among the most prevalent reasons for wildlife crimes in developing countries are corruption of authorities and lack of law enforcement. The lack of enforcement was partly associated with financial resource constraints and lack of capacity (Jachmann, 2008). Other more important common wildlife enforcement challenges found in developing nations like Indonesia and Philippines were poor interagency cooperation, technical deficiencies in laws, policies or procedures as well as insufficient technical skills and knowledge (Akella and Cannon, 2004). Similar challenges exist but with some differences in Malaysia. This paper aims to analyze the main challenges facing the enforcement of legislation on wildlife trade and conservation in West Malaysia as perceived by the enforcement authorities as well as environmental NGOs. Many environmental NGOs in Malaysia play a significant role in wildlife conservation especially in raising

awareness, funds, giving consultation and other programmes that support the environmental cause. As active players in the field, these NGOs can share some perceptive views on the enforcement of the laws.

Methodology

Located in Southeast Asia, Malaysia is a federal constitutional monarchy with 13 states and 3 federal territories. The country encompasses a total area of 329, 750 sq. km with a total population of around 28.3 million (Department of Statistics Malaysia, 2011). According to a conservative estimation, the country has more than 170,000 species with many more species remaining undiscovered (MNRE, 2006). The country is geographically divided into West Malaysia and East Malaysia. The focus of the study is West Malaysia, also referred to as Peninsular Malaysia. The region was chosen because firstly, except for Sabah, Sarawak and Labuan, the rest of the country is located in West Malaysia and secondly wildlife administration, regulation and enforcement in West Malaysia have been federalized. The scope of the study is confined to the enforcement of INTESA and WCA, excluding enforcement issues related to habitat protection which in itself could become a focus of another study.

The research methodology consisted of semi-structured interviews with key informants from two groups of stakeholders namely the regulators and four environmental non-governmental organizations (NGOs) with significant interest in wildlife protection. The regulators comprised key informants from headquarters and several randomly chosen regional branches of the Department of Wildlife and National Parks (DWNP) and the Department

of Agriculture (DOA). Most interviews were conducted face-to-face and generally lasted forty-five minutes to one and a half hours. The study used semi-structured interviews to allow new questions to be brought up during the interview based on what the interviewees say. As a framework, the interviews explored common themes including capacity of the enforcement agencies, public cooperation and awareness and inter-agency relationship. Despite having the framework themes, interviewees were also asked a general question about anything that they perceived posing challenges to the enforcement to avoid bias towards the common themes. Informants from the regulatory agencies comprised individuals who were actively involved in enforcement activities and hold quite important positions in their respective agencies. Respondents from the selected environmental NGOs also had wide knowledge about wildlife enforcement in the region due to their involvement with wildlife conservation efforts and communication with the regulatory agencies. Inductive content analysis was later used to analyze the transcriptions. The analysis was done manually using word processing programmes. The researcher started with open coding whereby notes and headings were written in the transcribed data while reading them carefully to find themes or issues that recur in the data. Each transcription was read, at least, twice. The headings were categorized. The list of categories was then grouped under higher order headings, a process Elo and Kyngäs (2008) called abstraction.

Results

As shown in Figure 1, challenges in enforcing conservation laws reported by the key informants interviewed could generally be grouped into

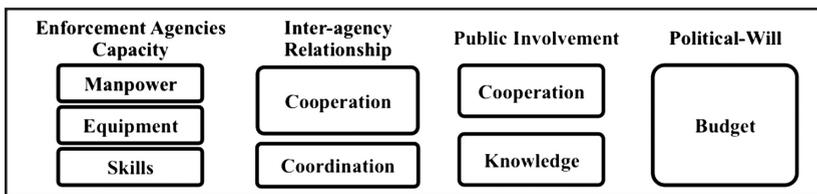


Figure 1: Main wildlife enforcement challenges

Table 1: Some illustrative responses from the respondents

Challenges	Illustrative Interviewee Responses
Specific to Agency Capacity	
Lack of manpower	“[as compared to the complaints or reports that were received] the number of officers that we have are small...”
Lack of skills	“the challenge is more on the skills to conduct court hearing...we have short courses on prosecution...but [they are] still insufficient...”
Inadequate equipment	“If we want to conduct ambush, for example, we do not have weapons to protect ourselves...up-to-date communication gadgets...and our vehicle [used during the operation] are no match to the ones used by the culprits...”
Related to Public Support	
Lack of public cooperation	“There are people who know about wildlife crime activity but they are scared to report it [to the authority]...” “The main challenge...is the lack of cooperation from the public to convey information about any wildlife crime activity”
Related to Interagency Relationship	
Coordination	“[other relevant agencies like Customs] need to know the roles of [our department] and help us to control and monitor [the borders]”

those relating to: capacity of the enforcement agencies; public involvement; inter-agency relationship; and lack of political-will.

All these challenges were mentioned fairly consistently among the respondents with some variations except for political-will which was cited mainly by NGOs. Some of the respondents’ responses are shown in Table 1.

Capacity of the Enforcement Agencies

All informants cited insufficient institutional capacity as a primary challenge to the enforcement of wildlife law in West Malaysia. The capacity of the regulatory agencies is mainly confined by the lack of manpower, skills and equipment. The numbers of wildlife enforcement personnel are relatively small compared to the numbers of legislation that their respective departments need to enforce or the various tasks that come with the legislation or the variety of complaints or reports that they receive. An informant for this research stated:

“an investigating officer of a suspected wildlife crime ...is also responsible for other issues like managing human-wildlife conflict...

[this] sometimes derail the attention of the officer from the former”.

A few respondents noted about the easily accessible routes for illegal wildlife crimes throughout West Malaysia. While most of the enforcement efforts focus on the entrance and exit points, virtually all land and sea crossing international borders are being utilized by wildlife smugglers or poachers. This makes it more difficult for the wildlife enforcement authorities as they have to stretch thinly their personnel, at least, to show their presence in certain points at borders. With regard to skills of the enforcement staff, almost all interviewees’ identified lack of prosecuting skill especially those related to court proceedings, presentation of argument and handling of evidences as a big challenge. There are many factors that may have caused this including lack of experience because of the infrequency of wildlife crime prosecution before the courts. Table 2 shows the scarcity of detected wildlife violations being brought to courts for prosecution. The rest of the cases were dealt with compounds, a sort of administrative penalties issued by the enforcement authorities.

Table 2: Number of wildlife violations detected and prosecuted cases

Year	Total Violations Detected	Cases Prosecuted
2007*	3,592	57
2008*	3,588	45
2009* (WPA)	3,813	27
2010* (WPA)	3,487	55
2011** (INTESA & WCA)	475	60

* cases under the then Wildlife Protection Act 1976

** cases under INTESA and WCA as of June 2011

Source: DWNP annual reports from 2007 to 2010 and personal communication

Other skills that were cited as posing a bit of challenge were unfamiliarity with standard operating procedures and skills to gather intelligence. Inadequacy of equipment is another challenge. Compared to criminals who use variety of techniques and sophisticated technologies, the regulatory agencies have limited equipment in terms of quantity or advancement. In the wake of widely organized wildlife crimes, the importance of empowering the regulators with the latest equipment related to their work cannot be dismissed.

Public Support

Almost all interviewees mentioned the lack of public awareness about the law as a challenge. One regulatory informant reflected upon the issue: “The public awareness on wildlife conservation, though seemed to be increasing [than before], is still low. Their knowledge about the new wildlife law is also lacking”. Low public understanding of the existing legislation in turn contributes to the difficulty to get their cooperation. Several key informants identified a few reasons that may have caused this difficulty. A few informants stated public fears for their safety as a reason. It is not unknown that wildlife crimes are linked to other serious crimes making the use of intimidation and violence by the culprits not improbable (Cook *et al.*, 2002). Another reason related by other respondents was that some sectors of the public were reluctant to cooperate unless they received some financial reward. Other respondents claimed that there

were also individuals who were paid by the culprits to keep silent.

Inter-Agency Relationship and Political-Will

Inter-agency cooperation, meetings and information exchange among wildlife enforcement authorities and, between them and other enforcement agencies takes place on an ad-hoc basis. Having said that, many informants interviewed for the study recognized that inter-agency cooperation and coordination remained a challenge for effective enforcement. Cooperation and coordination should not be confined solely to wildlife enforcement authorities but inclusive of other enforcement agencies that are not designated as wildlife enforcement authorities like the army. Otherwise the latter cannot be of much help. As reflected by one informant:

“though we have army that take care of our borders’ security, they cannot arrest poachers because they do not enforce our wildlife legislation”.

Some of the regulatory informants cited several barriers to interagency cooperation that were related to institutional capacity. A respondent suggested that while wildlife enforcement agency has limited capacity, other agencies also face similar difficulty. For example, although customs can play a significant role in monitoring illegal trade of wildlife species at the entry or exit points, they need to deal with so many containers that make it impossible for them to scan each of them.

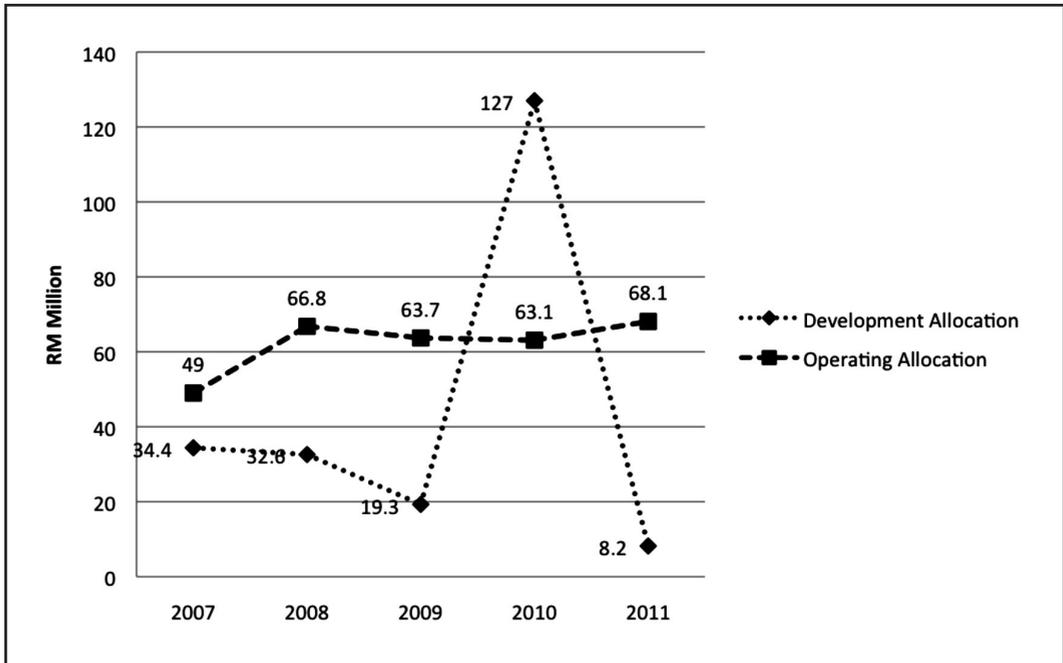


Figure 2: DWNP budget allocation from 2007-2011
 Source: DWNP annual reports from 2007 to 2011

Furthermore, they may have detection of other contrabands as their main priority. The problem, according to another NGO key informant is worsened by the absence of legislative support to encourage interagency cooperation and coordination.

Several key informants from NGOs stated lack of political-will as the main challenge to effective enforcement. They argued that this was manifested by the relatively small yearly budget allocation for the Ministry of Natural Resources and the Environment. The ministerial allocation will have an impact on the enforcement budget. The enforcement agency’s ability to provide, among other things, sufficient training to improve the various skills needed by its personnel and to equip them with the facilities and latest equipment depends on the availability of funding and other support required to do their job well. Figure 2 shows budget allocation for the DWNP between 2007 and 2011.

Most importantly, political will is needed to increase the number of enforcement personnel

by appointing new officers to fill in vacant posts and create even more posts to further increase the manpower within the enforcement agency. Concerns over insufficient wildlife officers and small budget to enforce the law have been voiced out by legislators (Ng and Lee, 2010).

Discussion

In many developing countries, resource constraints greatly limit the ability of authorities to implement conservation legislation (Wilkie *et al.*, 2001). In countries where human resources and funding are inadequate to enforce existing protection laws, over-exploitation of wildlife is severe (Lee *et al.*, 2005). In Malaysia, lack of enforcement personnel has been noted as a problem since the beginning of wildlife conservation endeavors (Kiew, 1982). Insufficient manpower and equipment can lead to the absence of constant monitoring or inspection activities. Infrequent inspections makes the regulated parties less worried of being detected which encourages them to stay

in non-compliance (Regueira *et al.*, 2012). Although enforcement procedures may in place, the lack of manpower limits the extent to which enforcement activities can be carried out (Tun-Min Poh and Fanning, 2012). In West Malaysia, the problem of insufficient personnel is usually not confined to the enforcement unit of the regulatory agency but is true to the whole agency. As a result, enforcement officers are also required to help in other matters such as relocating wildlife species that cause conflict with humans as well as participating in awareness programmes. Consequently, many of the respondents from the regulatory agencies stated that distractions from other tasks hamper them from keeping focus on their enforcement work.

In Malaysia, the wildlife enforcement authorities have the power of arrest and seizure of any specimens, materials or vehicles relevant to investigation, with or without a warrant. They also have all the powers given to police officers (Ariffin and Mustafa, 2013). Having sufficient investigation powers, the main challenge for them now is to ensure they are adequately trained to undertake their policing tasks. Despite their small numbers, years of experience in the field together with the training that they received may have helped the enforcement officers in doing their jobs. However, an investigation officer, for instance, must know the proper procedures for taking and recording statements of witnesses or suspects; and how to prepare an investigation file for a particular case and how to deal with vital exhibits. The current study found that the enforcement officers perceived that they still lacked skills in these area. Therefore, regular training targeting specific skills which the enforcement officers lack is still required. High penalties under wildlife legislation will have no effect if the problems of gathering evidence, investigating cases and having experienced prosecutors bring expertise to bear at court are not also addressed (Nurse, 2012).

Under the existing wildlife conservation legislation in West Malaysia, enforcement officers can institute prosecution with the

written consent of the public prosecutor. Since the current legislation offer stringent punitive measures and provisions for the protection of wildlife, most people charged under the law would foreseeably ask for trial rather than plead guilty. Therefore, enforcement officers must be able to conduct a successful prosecution and do all the preparations for that purpose. This is a big challenge for them as most of them do not have a legal background. Therefore, regular training to sharpen wildlife enforcement officers prosecuting skill is crucial.

High-level political commitment is essential to ensure wildlife conservation generally and its law enforcement specifically is on the national political agenda and is given the priority it deserves. No matter how high the commitment of wildlife enforcement personnel to implement the legislation, it requires resources. There needs to be higher political-will to invest sufficient funds to enhance the institutional capacity of wildlife enforcement in Malaysia. Budget allocation for an agency is closely linked to the enforcement capacity. Other than that, inter-agency cooperation and coordination cannot be effectively established through ad-hoc measures. The absence of any structured or common platform to coordinate cooperation may also result in lack of communication (Schoppe, 2008), which can lead to a loss of opportunity to maximize detection of illegal exports. According to Akella and Cannon (2004), a similar problem of lack of communication between multiple agencies charged with enforcement also occurs in other countries. In Malaysia, efforts have been made to reinforce cooperation among wildlife enforcement agencies and between them and other enforcement agencies like the army, police, Customs and airport authorities including through an integrated enforcement task force (Perimalu, 2010b).

Conclusion

The existing law regulating wildlife crimes under INTESA and WCA are much better compared to the law before. They offer tougher law and penalties. The law, however, are unlikely to be

effective without corresponding improvements in the enforcement practices. While there may be still a scope to review the Malaysian wildlife law, challenges in the existing enforcement regime needs to be addressed before effective wildlife law enforcement can be achieved. In the wake of the lack of institutional enforcement capacity presents the main enforcement challenge, the importance of getting cooperation from other law enforcement agencies who work on national borders and exit or entry points must be acknowledged. It is unusual to stipulate inter-agency cooperation and coordination in the legislation but other efforts like conducting joint training to foster trust and an appreciation of each agency's role or establishing Memorandum of Understandings can be taken. Another measure is establishment of common standard operating procedures that are applicable to the wildlife enforcement agencies and other relevant enforcement authorities when the latter came across noncompliance involving wildlife.

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References

- Akella, A. S. & Cannon, J. B. (2004). Strengthening the Weakest Links Strategies for Improving the Enforcement of Environmental Laws Globally. Center for Conservation and Government, Washington, DC.
- Ariffin, M. & Mustafa, M. (2013). International Wildlife Trade Regulation and Its Enforcement in Malaysia. 1 LNS(A) xlvii.
- Cook, D., Roberts, M., & Lowther, J. (2002). The International Wildlife Trade and Organised Crime: A review of the Evidence and the role of the UK. Regional Research Institute University of Wolverhampton, Wolverhampton.
- Department of Statistics Malaysia. (2011). Population Distribution and Basic Demographic Characteristics Report 2010. Accessed online October 4, 2013: http://www.statistics.gov.my/portal/index.php?option=com_content&id=1215
- Department of Wildlife and National Parks Peninsular Malaysia. (2008). *Annual Report 2007*. Selangor: DWNP.
- Department of Wildlife and National Parks Peninsular Malaysia. (2009). *Annual Report 2008*. Selangor: DWNP.
- Department of Wildlife and National Parks Peninsular Malaysia. (2010). *Annual Report 2009*. Selangor: DWNP.
- Department of Wildlife and National Parks Peninsular Malaysia. (2011). *Annual Report 2010*. Selangor: DWNP.
- Department of Wildlife and National Parks Peninsular Malaysia. (2012). *Annual Report 2011*. Selangor: DWNP.
- Elo, S., & Kyngäs, H. (2008). The Qualitative Content Analysis Process. *Journal of Advanced Nursing*, 62(1): 107-115.
- Jachmann, H. (2008). Monitoring Law-enforcement Performance in Nine Protected Areas in Ghana. *Biological Conservation*, 141: 89-99.
- Kiew, B. H. (1982). Wildlife Conservation in Malaysia. In: Anon. Development and the Environmental Crisis: Proceedings of the Symposium. The Malaysian Environment in Crisis. Penang, Malaysia. 94-115.
- Lee, R. J., Gorog, A. J., Dwiyahreni, A., Siwu, S., Riley, J., Alexander, H., Paoli, G. D., & Ramono, W. (2005). Wildlife Trade and Implications for Law Enforcement in Indonesia: A Case Study from North Sulawesi. *Biological Conservation*, 123: 477-488.
- Mancini, A., Senko, J., Borquez-Reyes, R., Guzman, P. J., Seminoff, J., & Koch, V. (2011). To Poach or Not to Poach An Endangered Species: Elucidating the Economic and Social Drivers Behind Illegal Sea Turtle Hunting in Baja California Sur, Mexico. *Human Ecology*, 39: 743-756.

- Ministry of Natural Resources and the Environment (MNRE). (2006). Biodiversity in Malaysia in the Developing World, Resource Constraints Greatly Limit the Ability of Governments to Implement Conservation Legislation.
- Ng, E., & Lee, K. K. (2010, July 13). Serious Lack of Wildlife Law Enforcers. *New Straits Times*.
- Nurse, A. (2011). Policing wildlife: Perspectives on Criminality in Wildlife Crime. *Papers from the British Criminology Conference*, 11: 38-53.
- Nurse, A. (2012). Repainting the Thin Green: The Enforcement of UK Wildlife Law. *Internet Journal of Criminology*. Accessed online November 4, 2013 http://www.internetjournalofcriminology.com/Nurse_Repainting_The_Thin_Green_Line_IJC_Oct_2012.pdf
- Perimalu, Y. (2010a, November 22). More Bite with New Law. *New Straits Times*.
- Perimalu, Y. (2010b, October 15). Everyone's Task to Curb This Crime. *New Straits Times*.
- Poh T. M., & Fanning, L. M. (2012). Tackling Illegal Unregulated and Unreported Trade towards Humphead Wrasse (*Cheilinus undulates*) Recovery in Sabah, Malaysia. *Marine Policy*, 36: 696-702.
- Regueira, R. F. S., & Bernard, E. (2012). Wildlife Sinks: Quantifying the Impact of Illegal Bird Trade in Street Markets in Brazil. *Biological Conservation*, 149: 16–22.
- Schoppe, S. (2008). Science in CITES: The Biology and Ecology of the Southeast Asian Box Turtle *Cuora amboinensis* and Its Local Uses and Trade in Malaysia. TRAFFIC Southeast Asia, Selangor.
- Wasserman, C. E. (1992). Principles of Environmental Enforcement. In Proceedings of the International Conference on Environmental Enforcement, 22-25 September 1992, 1: 13-17. Budapest. Accessed online November 30, 2013 <http://www.inece.org/2ndvol1/pee-toc.htm>
- Wilkie, D. S., Carpenter, J. F., & Zhang, Q. F. (2001). The Underfinancing of Protected Areas in the Congo Basin: So Many Parks and So Little Willingness to Pay. *Biodiversity Conservation*, 10: 691-709.