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~~Lies~~
Truth



Myths and criminal justice

Plus

Work in prisons

Spying on communities

Violence and surveillance



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Protecting endangered species

Jasper Humphreys and M L R Smith discuss how laws are being undermined in areas of conflict.

After drugs and guns it is the illegal trade in wildlife, whether dead or alive, that generates the biggest global share of illicit sales, amounting to \$10 billion a year. However, it has the weakest enforcement apparatus by a long way of the 'big three' sectors. How is this so?

While there is a huge raft of conventions, protocols and agreements to halt the destruction of biodiversity and its wildlife, the underpinning legal mechanism is essentially powered only by high hopes and expectations. This is 'soft power' and, from a conservationist perspective, this lack of enforcement means that wildlife is wide open to exploitation and the lack of viable protection is a death-trap for many endangered species.

Putting aside environmental issues such as climate change and habitat destruction, the conservation of biodiversity and wildlife is bound up with some of the thorniest international legal issues that relate, on the one hand, to sovereignty, statehood and security arrangements while on the other hand are dominated by the economic forces of globalisation. What often joins the two sides is war; as the great Prussian philosopher of war, Carl von Clausewitz, famously wrote: 'war is an extension of politics by other means'.

Since the end of the Second World War there have been an estimated 160 wars. It is calculated that during the 1990s there were three times as many ongoing wars than any time in the 1950s and twice as many during the 1960s. The point here is that the Earth's areas of richest biodiversity lie mostly in tropical and

sub-tropical regions of developing states, many of which have been affected by conflict at some time or another. A report by a group of leading US scientists showed that 80 per cent of the armed conflicts between 1950 and 2000 took place in 'hotspots', areas deemed to contain particularly diverse ranges of threatened species (Hanson et al., 2009). Even more explicitly, the incidence of resource-based wars has been growing steadily; one United Nations report (2010) suggests that of the 35 conflicts since 2000, 18 have been about or fuelled by the exploitation and control of natural resources, as opposed to wars



Rhinos at risk

fought over issues of ideology and territorial security. Such wars are less about clashes of inter-state interests and more about civil wars within states, and are particularly prevalent in Africa.

Even though the process defies the conventional notion of politics as some sort of ideological struggle it is still deeply political and invariably results in the emergence of a quasi-state apparatus, the influence of which is often restricted to urban concentrations, is dominated by criminal plunder, with limited jurisdiction over its subjects, and where the supply of welfare and social services to the population are

all but non-existent. These are different kinds of wars, and a different kind of politics drives them.

The participants in resource wars pursue their political agenda through violence in order to increase their power by whatever means necessary at the expense of time-consuming state building, using force with enhanced terror if necessary but which form new rules and authority. In other words, 'the state' merely becomes a conduit for booty for these elite groups. For example, the Madagascan government of former disc jockey Andry Rajoelina has been accused of encouraging the 'timber mafia' so that it can reap a percentage of export tax on hardwood sales, a policy that has had disastrous effects on the sensitive habitats that support the native lemur population (Smith, 2009).

The predominant intrastate character of war, involving political factions and ethnic groups, has resulted in mass migrations of refugees. Refugees share a common need with the military forces that oppress them, which is to survive off the land, with devastating effects on wildlife and wider eco-systems. During Rwanda's civil war nearly 50 per cent of the country's seven million people were displaced into camps along the eastern regions of the Congo. Of these, approximately 860,000 refugees settled around the Virunga National Park, home of the Mountain Gorilla, with another 330,000 camped in the Kahuzi Biega National Park, the only home of the Grauer's Gorilla.

Worldwide awareness about protecting wildlife has moved a long way since the first conservation treaty was signed in 1889 to regulate salmon fishing on the Rhine. One side of the attempt to arrest the assault on wildlife resides with 'soft' power diplomacy and the threat of sanctions. The cornerstone of this approach is the Convention on International Trade and Endangered Species of Wild Fauna and Flora (CITES). Established in 1973 and now with 175 signatories, CITES aims 'to ensure that international trade in specimens of wild animals and plants does not threaten their survival'. While CITES has attempted

to construct an international consensus its weakness is that it relies solely on the goodwill and co-operation among signatories and lacks the means of enforcing compliance in the face of mounting and complex threats to animals, which either did not exist or were unknown when CITES was originally established.

The ineffectiveness of international conventions is underlined by the fact that while international law has been applied to environmental disputes, such as the Trail Smelter Case between Canada and the United States in 1938, no action has been taken against any actor for wilful environmental destruction (United Nations, 2006).

With ivory trading at over £1000 per kilo and a rhino horn fetching £150,000, the illegal wildlife trade presents high-reward/low-risk opportunities for poachers, especially given exceptionally weak enforcement regimes. Since 1979, the African elephant population has fallen from an estimated 1.3 million to under 400,000 with the decline most dramatic in the past few years; for instance, the elephant population in the Zakouma National Park in Chad dropped from 4000 in 2006 to just 600 at the beginning of 2010 (Leake, 2010). Elsewhere, the number of tigers in India reported across 23 game reserves registered a drop from 3,700 in 2002 to 1,400 in 2010; furthermore, it is estimated that in the wild some 4,200 black rhinos are left in Africa, along with only 370 Nepalese rhinos and a mere 130 surviving Javan rhinos (Milliken et al., 2009).

With the growing influence of China in the developing world comes a heightened scramble for resources along with different cultural attitudes to the natural world. The Chinese policy of offering soft loans has enabled it to discreetly 'invade' the continent, extracting raw materials on a vast scale to fuel its burgeoning economy. China's involvement in the process of resource exploitation brings with it an enticement for local people to poach and trade wildlife. The decision by CITES in 2008 to a limited trade in ivory in response to

Chinese pressure has been blamed for an increase in poaching in East and Southern Africa (Eccleston, 2008).

The alternative to 'soft' power is 'hard' power, being the use or threat of physical coercion but examples relating to biodiversity and wildlife protection are rare and usually spring from ancillary reasons such as the need to protect species for the sake of tourism.

Thus, it is left to the more radical end of the conservation spectrum to take up the forceful struggle to protect animal life such as the marine conservation group, Sea Shepherd, whose high-end passive aggressive confrontations with Japanese whalers, gains large audiences via the Whale Wars series on Animal Planet TV.

Sea Shepherd illustrates an evolving, and intriguing, development in international affairs, which is the capacity for self-generating resistance beyond the state in support of transnational laws and norms. Public support for direct action stems in part, as Sea Shepherd's leader Paul Watson emphasises, because his organisation's actions are directed against illegal whaling and are aimed at enforcing international maritime law under the United Nations World Charter for Nature, adopted in 1982.

Wildlife forms part of the natural resource base of the state as codified in the UN Resolution on Permanent Sovereignty over Natural Resources in 1963. The principle of permanent sovereignty, as enshrined in the founding United Nations Charter, is regarded as a basic right of self-determination and provides for exclusive control of the resources within state boundaries. However, the issue of sovereignty becomes much more fraught in resource rich areas as wildlife parks and reserves are themselves often located in areas containing oil, coltan or diamonds, as well as timber products.

Though environmental and conservation issues were not covered in the original Charter, the General Assembly and the United Nations Environmental Programme (UNEP) has developed a range of important

environmental declarations and treaties over the last four decades.

The 1992 Rio Declaration announced that 'peace, development and environmental protection are interdependent and indivisible'. The then British Prime Minister, John Major, speaking as president of the Security Council, declared that 'non-military sources of instability in the economic, social, humanitarian and ecological fields have become threats to peace and security'.

The quickening decline in biodiversity and wildlife is forcing conservationists to think in radical directions but their task is not being helped by international law: some argue that the law itself is as much the problem as the issues and thus the world has become upside down, rather like Alice in Wonderland. ■

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