

Asset recovery and wildlife trafficking

Illegal wildlife trade (IWT) is in the global spotlight thanks to its alleged role in triggering the coronavirus pandemic. It is sparking vivid debate among communities of experts not just in conservation, but in business, finance, technology, anti-corruption forces and law.

One such debate is taking place in the ranks of litigation service providers and economic crime experts of The International Academy of Financial Crime Litigators and IWT specialists at the Basel Institute on Governance.

This short series presents their different expert perspectives on topics crucial to combating IWT.

In this edition, Gretta Fenner, Managing Director of the Basel Institute on Governance and Keith Oliver, Head of International at Peters & Peters Solicitors LLP together with his colleague Amalia Neenan, Legal Researcher, explore the role of asset recovery in combating illegal wildlife trade.

Should assets recovered from corrupt practices linked to wildlife trafficking be channelled into conservation and counter-IWT enforcement efforts?

What are the pros and cons, and have there been any examples of this type of strategy?

How asset recovery can support the fight against illegal wildlife trade



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The short answer: yes

It seems fair to use assets recovered from convicted criminals to benefit the victims of their crimes. This helps make up for the damage they suffered. It also makes sense to use recovered assets to prevent similar crimes from occurring in the future.

So yes, assets recovered from corrupt practices linked to wildlife trafficking should in many cases – though of course not all – be channeled into conservation and counter-IWT enforcement efforts.

Putting recovered funds to good use

There are precedents in other areas of asset recovery. For example, money stolen from Peru and recovered from bank accounts in Luxembourg and Switzerland is now being used to strengthen Peru's asset recovery system. That stolen money is paying for investments in electronic case management systems and in building a strong asset recovery team – both of which will help the country investigate and prosecute cases of grand corruption in the future.

Translated into the world of illegal wildlife trade (IWT), this means using recovered assets to empower IWT enforcement agencies. We would put a strong emphasis not only on anti-poaching measures but on developing their financial investigation skills and ability to bring money laundering cases against the highest-level traffickers and facilitators. Hitting these criminals where it hurts most – in their finances – is a powerful tool to interrupt illegal trade.

Stolen assets for sustainable development

Recovered assets could also be used to invest in socio-economic development of communities exposed to IWT. For example, building tourism and agricultural infrastructure in these areas will give more poachers a viable and legitimate way to provide for their families – because as our research team is uncovering, the reasons why people turn to poaching and trafficking are not as simple as they seem.

In any case, it is critical that recovered assets from IWT or other crimes don't just disappear into the black hole of public coffers. They should be used in such a way that people see a tangible value in fighting the crime both on the ground and in the financial sphere, where the high-level criminals and corrupt actors lurk.

How do you cut the head off the snake of the illegal wildlife trade?



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Cast your minds back to 2018. “Corona” was still just the name of a moderately alcoholic beer, and London was still a vibrant, international hub, without a lockdown in sight. Back then, the capital was playing host to the Illegal Wildlife Trade Conference, which was aimed at finding ways to curtail criminality and beef up the prosecution of wildlife traffickers, poachers and other interlinked offenders, by bringing together key global players and offering them a platform to discuss meaningful change. A good start, seeing as the illegal trade of wildlife (IWT) is the world’s fourth largest criminal industry, which is intertwined with organised crime rings dealing in the drug and arms trades as well.

However, two years on, and despite efforts to tackle this global problem, not nearly enough has been done to make a meaningful dent in what is estimated to be a \$23-billion-a-year industry. And now look where we are. From the many theories out there, whether it be the infamous (and debunked) “bat-soup” headline, or the slightly more reasoned suggestion of trafficked pangolins, Covid-19 (as a zoonotic disease) made the jump to humans after incubating in animals as transitional hosts beforehand.

It seems as if now the world is starting to wake up. More efficient measures must be put in place to curtail the trafficking and mistreatment of animals. This international problem needs an international response but getting multi-jurisdictional criminal agencies to work together is no mean feat. Instead, a more effective and speedier reaction may be to utilise asset tracing and recovery strategies.

In 2017, the United Nations Office on Drugs and Crime published a report on Enhancing the Detection, Investigation and Disruption of Illicit Financial Flows from Wildlife. It discussed the underutilisation of asset recovery in this arena,

in the same way as we would utilise the model as a means to disrupt any other criminal network. The report advocates that “asset forfeiture is a powerful tool to adjust the risk / reward equation of wildlife crime, by taking away the expected rewards of crime, and sending a message to criminals that this is not a high-profit activity. It also reduces the risk of criminal proceeds being re-invested in further criminal activities.” However, in a 2018 document published by the Royal United Services Institute, it turns out that the majority of IWT cases are focused on conviction rates rather than stamping out the monetary appeal of the enterprise.

IWT is rampant amongst some of the poorest nations. However, by following the money, assets recovered and seized as the proceeds of this criminality could be repatriated and used to fund trafficking curtailment projects or enforcement efforts. One of the biggest problems that has hindered the effective pursuit of these types of criminals is the apparent apathy towards the cause, coupled with a lack of financial backing for vital legal ventures aimed at bringing offenders to justice. Asset recovery in this sense could open up a wealth of financial avenues to make meaningful inroads, piggybacking on the surge in public outcry post-pandemic.

The only downside? Information coordination. Assets can be easily bounced across borders in the blink of an eye, and so international cooperation and knowledge sharing is paramount. What could be the problem there!

In the meantime, financial institutions need to “stay alert” (to borrow the UK Prime Minister’s phrase du jour in light of the country’s lockdown) to suspicious transactions, working with governmental agencies to track down illicit fund-streams. This is a key priority of the next EU Directive on Anti-Money Laundering (6AMLD) due to come into force from December 2020, where IWT is set to be a predicate offence. Banks, therefore, need to ramp up their Know Your Customer checks to take into account wildlife crime.

Unless and until the financial allure of IWT is dampened, there is no real incentive to disengage with this criminal activity. Money talks. Isn’t it time international bodies engaged in a conversation using the universal language of finance? To use a potentially ironic analogy (given the circumstances), the only way to “cut the head off the snake” as it were, is to re-enforce efforts to track, trace, and recover assets created by IWT.



Basel Institute on Governance

The Basel Institute on Governance is an independent, non-profit organisation working around the world to strengthen governance and counter corruption and other financial crimes. Headquartered in Basel, Switzerland since 2003, it is an Associated Institute of the University of Basel and has offices and field experts across Latin America and Africa. Some 80+ staff members work with public, private and academic partners worldwide on cross-cutting issues in the areas of asset recovery, public governance, public financial management, anti-corruption Collective Action and compliance.

The Basel Institute's IWT programme focuses this collective expertise in countering financial crime on the world's fourth largest illegal trade – wildlife trafficking. A specialist intelligence team operates the Information Sharing System at the core of the United for Wildlife Financial and Transport Taskforces, tying in with the work of IWT-focused financial investigation specialists, analysts and field researchers in the world's wildlife trafficking hotspots.

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The International Academy of Financial Crime Litigators

The International Academy of Financial Crime Litigators (The Academy) is a union of established academic and litigation professionals who are involved with all sides of economic crime cases. Their shared mission is to spark lively debate about relevant experiences and research findings, and to serve as a catalyst for enriching legal theories and litigation practices.

Founded in 2018 in collaboration with the Basel Institute on Governance: The Academy, where theory meets practice.

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