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“Going Down the Glocal”: Wildlife Crime in Vietnam

Abstract

The prevailing attitude of global law enforcement authorities combined with media hyperbole perpetuates the assumption that the illegal wildlife trade has a synchronic relationship with organised crime and additionally generates huge profits for the individuals involved. The global trade in rhino horn, which is poached, trafficked, sold and consumed as part of a thriving, illicit market, in wildlife products is generally viewed as one of the most heinous wildlife crimes given that the five species of rhino (white, black, greater one-horned, Sumatran and Javan) are regularly reported as being on the brink of extinction. While many support that a coetaneous contract exists between organised crime and wildlife crime at the general level, there is little to suggest that at the local level, the rhino horn trade in Vietnam constitutes organised criminal behaviour. Borrowing its title from Hobbs (1998) analytical work, which focused on the local rather than the transnational dimension of organised crime, the purpose of this paper is to examine whether the illegal wildlife trade, and specifically, the rhino horn trade in Vietnam, meet the criteria of organised crime set out under existing international and domestic legal frameworks. The conclusions drawn from the research challenge the assumption that wildlife crime at the local level in Vietnam is organised crime. Through an analysis of international and domestic norms, it can be concluded that wildlife crime in Vietnam is not categorised by domestic law as a serious crime and therefore cannot be classified as organised crime at the international level, although media and law enforcement reports claim contrary. Moreover, supplemental interview data indicates that the illegal wildlife trade in Vietnam is largely inhabited by informal participants who rely on the profits for subsistence and who lack the formal organisation required by international legislation, in order to satisfy the legal definition of organised crime. The author stresses that the context of locality of the rhino horn trade has to form the basis of future policy making decisions if this destructive trade is to be effectively curbed.

Keywords

Vietnam; rhino horn; international law; subsistence; organised crime, money laundering; poverty; United Nations; illegal enterprise; criminal networks, poaching.

Manuscript text

1 Introduction

Wildlife crime is viewed as a pervasive and growing threat at the international level (UNODC, 2010) and one which generates massive profits (UNEP, 2013). Indeed, it is the prevailing attitude of law enforcement authorities, that wealth accumulation and profit generation are the fundamental drivers for engaging in nearly all types of criminal activity – including wildlife crime. An extension of such thinking is that wildlife crime constitutes organised crime and produces unquantifiable cash profits for those involved. A further amplification of this notion is strengthened by the preoccupation of law enforcement bodies to link organised crime (including wildlife crime) to the generation of assets which subsequently need laundering: “almost all crime types make use of cash to facilitate money laundering at some stage” (EUROPOL, 2015: 7).

The figures released by global law making bodies and repeated in the media hyperbole, further serve to strengthen the assumption that wildlife crime is one of the most profitable organised crimes, ranked alongside drugs trafficking, arms dealing, counterfeit goods and human trafficking (Lawson and Vines, 2014). In 2010, the United Nations Office on Drugs and Crime (UNODC) reported that wildlife trafficking from Africa and South East Asia to Asia, generated approximately US\$8 million annually (UNODC, 2010). In 2013 the UNODC released a detailed threat assessment of transnational organised crime in East Asia which stated that the illegal trade in wildlife in South East Asia was worth US\$2.5 billion a year (UNODC, 2013). In 2014 PoachingFacts, a self-proclaimed fact finding conservation group with a web presence stated that the “retail price of a whole rhino horn is commonly pegged at around \$60,000 per kilogram, with some reports of as much as \$100,000 per kilogram being charged” (PoachingFacts, 2017). John Sellar of the Global Initiative Against Transnational Organised Crime, writing for an FBI Law Enforcement Bulletin, is candid in admitting that, “little evidence exists related to prices. However, figures have ranged perhaps from \$70,000 per kilo to \$240,000 for a single horn” (Sellar, 2017).

Amidst the media maelstrom surrounding the lucrative trade in rhino horn (Ryall, 2016; Van Der Merwe, 2016), there are few challengers to the notion that those involved in the rhino horn trade are poaching kingpins. These are said to be part of “ruthlessly efficient, imaginative [and] endlessly adaptive” (Rademeyer, 2016: 28) transnational criminal organisations; ones which “are making so much money that they literally don’t know what to do with it” (Steyn (interviewing John Sellar – who referenced illicit drug trade examples when answering questions on the rhino horn trade), 2015). Ergo, many of the preconceived notions surrounding the involvement of “dangerous criminal organizations” with the illegal wildlife trade (Akella and Allan, 2012: 7) are predicated on Americanised organised crime control policies, which arose out of the inconclusive war on drugs (Beare and Woodiwiss, 2014). As such, the assumption that wildlife crime is synonymous with vastly profitable organised crime derives from law enforcement and policy making rhetoric. Such a viewpoint consistently ignores evidence that organised crime does not always facilitate or cause the illicit trade in wildlife (Pires et al, 2016: 8). Instead, such crimes occur as a result of savvy and opportunistic locals (Lavorgna, 2014: 2) who take advantage of “new entrepreneurial based arenas” (Hobbs, 1998: 409) which support networks embracing both the legitimate and illicit business options.

In light of the assumed pecuniary advantages gained from participating in wildlife crime and bearing in mind its prevalence in South East Asia, there is a dearth of local studies on the subject. There is no known specific research conducted on wildlife crime as illicit business opportunities in Vietnam, and furthermore, there is no known socio-legal research which challenges the postulation that the wildlife trade specific to Vietnam is organised crime. Although, as stated by Pires et al (2018: 8) – writing on the parrot trade in the neotropics –an “emerging body of literature is demonstrating that much of the wildlife poaching and the subsequent illegal trade of those products is indeed unrelated to organised crime in the traditional sense of the definition”.

A range of high profit generating organised crimes have previously been addressed in academic literature (Levi, 2002; Shelley, 2003; Perkel, 2004; Chaikin and Sharman 2009), and sociologists, criminologists, and some from the field of international politics, have postmarked wildlife crime as part of a broader spectrum of

study covering transnational organised crime at the general level (Webb, 2000; Mackenzie, 2002; Warchol, Zupan, Clark, 2003; Haken, 2011; Elliott, 2012; Ayling, 2013; Levi, 2013). However, in the field of socio-legal scholarship, there generally exists a dearth of engagement concerning wildlife crime as organised crime when considered in light of existing legal frameworks – let alone focused studies at the local level, on the rhino horn trade in Vietnam. Traditionally, legal scholars have shied away from discussions focusing on organised crime and left such discourse to criminologists, yet there remains a need for lawyers to analyse existing legal frameworks relating to organised crime and to evaluate their effectiveness, in order to inform future policy making decisions which may reduce the poaching, trafficking and selling of rhino horn. The seminal importance of this article is that it does not support the notion that wildlife crime at the local level can be easily identified as organised crime in Vietnam and it highlights that the domestic legal framework protects those who are engaging in illegal enterprise for subsistence at the expense of the rhino.

2 Methodology

The data collection and research for the paper is largely based around the analysis of primary sources including international and domestic legislation and supplemented by data gathered from interviews. Secondary sources including academic literature, news reports and government reports have also been utilised. The research for the paper was carried out over a period of 17 months from May 2015. Interviews were conducted and transcribed during April-June 2015 and the interview data analysis was carried out during July 2015 at the Lauterpacht Centre for International Law, Cambridge University. Ongoing research of primary and secondary sources was completed in December 2016.

Semi-structured interviews were conducted in English, via Skype with seven participants taking part in a total number of six interviews, (two of the participants wished to be interviewed together), with interviews each lasting approximately one hour. The researchers used a combination of homogenous and expert purposive sampling to select the interviewees. Homogenous purposive sampling meant that the interviewees shared similar characteristics in terms of their occupational and research interests and they also possessed

similar ideologies within the wider context of combating what they considered to be organised crime. Expert purposive sampling (an ideal methodology when there is a general lack of empirical evidence in a given research area) was also used, as it allowed for the interviewees to be selected based on their expertise working in law enforcement agencies, non-governmental agencies and international organisations; which were generally concerned with the protection of wildlife and combating organised crime both in Vietnam and at the global level. The criteria used to select suitable interviewees required them to: 1) Work in an authoritative position for a relevant institution; 2) possess specialist knowledge of wildlife crime and/or money laundering, and 3) have the time available to speak freely and participate in the research. The selection criteria were further refined by assessing how appropriate the data provided by the participant was likely to be, both in terms of relevance and depth.

Additionally, although the principle of anonymity is a grey area in academic writing given that scholarly research is traditionally open to full scrutiny, all the interviewees were guaranteed namelessness because of the sensitive nature of the data and their positions. For this reason, interviewees have been accorded an alphabet letter for identification:

A Global Organised Crime Expert, Whitehall, UK.

B Independent Wildlife Crime Expert, based in Europe – advises global NGOs and IGOs.

C Independent Financial Crime Consultant, based in Europe – advises global financial institutions.

D Wildlife Crime Expert, non-governmental organisation, Vietnam.

E Financial Crime Expert, intergovernmental organisation, Vietnam.

F Wildlife Crime Expert, non-governmental organisation, Vietnam.

G Wildlife Crime Expert, non-governmental organisation, Vietnam.

3 Situating Wildlife Crime in Existing Legal Frameworks

There lacks an internationally agreed definition of what constitutes wildlife crime and consequently, it has been left to scholars to form various interpretations. According to Nurse's (2015: 22) broad legal definition, "a wildlife crime is an offence that involves "wildlife" (wild flora and fauna) and constitutes a breach of legislation (national and international)". Wyler and Sheikh (2013: 3) also provide a wide interpretation of wildlife crime: "The cross-border and transnational export, import, sale, or purchase of wild animal and plant resources becomes illegal when it is conducted in contravention to international commitments or domestic laws". Wallace and Ross (2012: 35) explain that, "[b]y definition, crime against wildlife (for example, wild or undomesticated animals and plants) and their derivatives involves four major categories: (1) the illegal taking or poaching; (2) possessing; (3) trading, shipping or moving; and (4) inflicting cruelty to or persecution of wildlife in breach of these laws." Based on the common scholarly characteristics outlined above, the author will employ the term 'wildlife crime' to mean the trafficking, poaching, possessing, and illegal trade of wild animals and plants in contravention of both international and domestic norms.

3.1 Wildlife Crime in Vietnam and the Palermo Convention

When attempting to frame a localised criminal activity within a global setting, it is imperative to achieve a definitional understanding of the legal concept of organised crime, given that the challenges posed by such crimes are generally different and greater than those of ordinary crimes (Young, 2013: 54). Although scholars in the area have struggled with the "elusive" definition of organised crime "for many decades" (Pires et al, 2016; 7), by identifying the legal meaning of organised crime within international law, one can attempt to situate wildlife crime in its broader context, as a crime much alike drug or human trafficking. The United Nations Convention against Transnational Organised Crime (Palermo Convention) (UNTOC, 2000) offers guidance on the meaning of organised crime under Article 2 (a) by explaining that an organised criminal group consists of a structured group of three or more persons who have the combined aim to

commit one or more serious crimes. Furthermore, under Article 5, participation in an organised criminal group itself constitutes a serious crime (Young, 2013: 55).

While academics continue to debate the definition of organised crime at the international level (Woodiwiss, 2003; Schloenhardt, 2008; Arsovska, 2011; Boister, 2012; Van Dijk and Spapens, 2014), the Palermo Convention is quite clear on what constitutes an offence serious enough to fulfil the legislative definition of organised crime. Guidance under Article 2 (b) defines a serious crime as, “conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty.” Under international law therefore, the definition of serious crime revolves around the duration of the criminal penalty associated with the offence; yet such a definition fails to take into account other factors such as the gravity, motivation or content of the offence. Simply put, according to and for the purposes of the Palermo Convention, “any conduct for which the maximum deprivation of liberty provided by the applicable domestic criminal legislation is of at least four years, is considered a serious crime” (see part 3.2 below for domestic legislation) (Conference of the Parties to UNTOC, 2012). Furthermore, the *travaux préparatoires* of the Palermo Convention stipulate that under Article 3, the scope of application of the Convention applies to combating wildlife crime (UNODC 2006: 32). Therefore, it can be reasonably assumed that in the context of international policy making, wildlife crime is generally considered a serious organised crime.

As already highlighted, the general assumption is that at the international level, wildlife crime is organised crime (UNODC, 2006: 32; HC Environmental Audit Committee, 2012: 100; IFAW, 2008). Strengthening the assertion that wildlife crime is organised crime, is that the level of seriousness attributed by law enforcement and conservation bodies, to various wildlife trade offences varies considerably depending on the commodity being traded. So, in the context of the rhino horn trade, the Environmental Investigation Agency assert that rhino horn is a rare and endangered wildlife product (EIA, 2013). The International Union for Conservation of Nature (IUCN, 2015) categorises the rhino as being vulnerable to critically endangered at the global level (WWF, 2015), and INTERPOL has set up Project Wisdom, “to assure a more comprehensive application of law enforcement resources”, in response to the fact that the international law enforcement community considers rhino horn trafficking to be, “intimately linked to issues involving

national security, and social and economic stability” (INTERPOL, 2017). However, viewing wildlife crime as global organised crime means viewing it through a lens “that relies heavily upon transnationality, cross border, international or other metaphors of globalisation” (Hobbs, 1998: 418) – indeed, a model that Hobbs highlights as being unconvincing (Hobbs, 1998; 418). Other types of wildlife crime such as damaging the roosts of bats, selling wild bluebells and poisoning birds of prey (PAW/DEFRA 2014), are not afforded the same level of media and law enforcement attention as high profit-low risk ‘global’ offences, including rhino horn trafficking. This may be due to the fact that local bluebell traffickers are not subject to the same international scrutiny as, “[t]he crime family at the centre of Asia's animal trafficking network” (Davies and Holmes, 2016). Yet, adopting the general standpoint of Hobbs (1998) and Smith (1980), the trade in rhino horn in Vietnam is better understood situated in its local context as a money-making illegal enterprise opportunity which incorporates “locales into overlapping networks of legal and illegal commerce” (Hobbs, 1998: 419).

Classifying wildlife crime in Vietnam as organised crime is arguably a reflex response of Western law making bodies, who use the threat of extinction of species as a way to rationalise the laws they create and to reinforce the belief in the legality of them as norm-making authorities who have the power to enact regulations. While a discussion of socialist law is outside the parameters of this article, nevertheless it remains a significant point that Vietnam is not a Western country and that the law-based-state doctrine introduced in 1991 (Gillespie, 2003) and codified by the 1992 Constitution, clearly highlights that, “The Socialist Republic of Vietnam is a State of the people, from the people, for the people. All State power belongs to the people and is based on an alliance between the working class, the peasantry, and the intelligentsia” (Chapter One, Article 2). Therefore, it could be strongly argued that low level criminals participating in Vietnam’s illegal wildlife trade are merely members of the peasant class exercising their right to subsistence (Qinglian, 2009) in a country which sees all classes contributing to Vietnam’s rapid economic development.

3.2 The Rhino Horn Trade in Vietnam and the Domestic Legal Framework

3.2.1 The Government Decree on the Management of Terrestrial Endangered, Precious and Rare Species of Wild Plants and Animals

In Vietnam, the trade in Javan rhino horn (*Rhinoceros Sondaicus*) is illegal under the national law (Government Decree 32/2006/ND-CP on the Management of Terrestrial Endangered, Precious and Rare Species of Wild Plants and Animals, of 30 March 2006 – hereafter referred to as the Government Decree). The Javan rhino is included in the legislation’s appendix of “Rare and Precious Plant and Animal Species” under Group 1 B, which prohibits the exploitation and use for commercial purposes of wild animal species. However, the Government Decree does not criminalise the trade in African rhino horn (including horns harvested from the black rhinoceros or hook-lipped rhinoceros (*Diceros bicornis*) and the white rhinoceros (*Ceratotherium simum*)), although news reports incorrectly speculate that in Vietnam, the trade in African rhino horn is illegal (Lloyd Roberts, 2014).

Under Article 10, the Government Decree addresses violations of the law. In particular Article 10 (1) states that: “Individuals and organizations, violating regulations on endangered, precious and rare species, shall be, depending on conditions and the level of the violations, subject to administration fines or prosecution in accordance with the existing regulations and laws of the Socialist Republic of Viet Nam”. It is notable that the sections of the Government Decree which deal with the violations of the legislation are drafted extremely widely, so that there is no identifiable punishment for those involved in the illicit trade in rhino horn apart from scant reference to administration fines which would encompass financial penalties (EIA, 2017).

3.2.2 Vietnam Penal Code

While the trade in the indigenous and critically endangered Javan rhino (IUCN Red List, 2016) constitutes an offence under the Government Decree, it is generally categorised as a “less serious crime” under Article 8 (3) of the Vietnam Penal Code No. 15/1999/QH10 (hereafter referred to as the Penal Code) because it is not

considered as causing a great harm to society and neither does it carry an identifiable prison term of more than three years:

Less serious crimes are crimes which cause no great harm to society and the maximum penalty bracket for such crimes is three years of imprisonment; serious crimes are crimes which cause great harm to society and the maximum penalty bracket for such crimes is seven years of imprisonment; very serious crimes are crimes which cause very great harm to society and the maximum penalty bracket for such crimes is fifteen years of imprisonment; particularly serious crimes are crimes which cause exceptionally great harms to society and the maximum penalty bracket for such crimes shall be over fifteen years of imprisonment, life imprisonment or capital punishment.

Furthermore, when the previously discussed Government Decree is viewed in light of the regulations of the Penal Code, it is arguable whether the illegal wildlife trade in Vietnam even constitutes a criminal offence. Article 8 (4) states that, “Acts showing signs of crime but which pose minimal danger to society are not crimes and shall be handled by other measures”. In Vietnam, society generally views wildlife consumption as a positive addition to an individual’s existing lifestyle, therefore, there exists a strong claim that it poses minimal, if no, danger to society and is therefore not a crime.

However, regardless of the domestic legal framework, the global trade in rhino horn is regulated by the Convention on International Trade in Endangered Species of Fauna and Flora (CITES, 1973). CITES is an international, legally binding framework, for regulating the global wildlife trade. In the context of the rhino horn poached in Africa for consumption in Vietnam, Black Rhinos fall under Appendix I which bans all trade in species on the cusp of extinction. The populations of White Rhinos in South Africa and Swaziland fall under Appendix II which regulates controlled trade for species not necessarily facing extinction and which allows for the, “international trade in live animals to appropriate and acceptable destinations and hunting trophies” (CITES Appendix II: 11). Conservation bodies highlight that the poaching and killing of rhinos in Africa continues due to the surge in demand for the product in Asian countries (Save the Rhino, 2015), including Vietnam as a primary consumer country of African rhino horn (Nowell, 2012).

That consumer demand for rhino horn far outweighs its availability and is pushing a species to the brink of extinction is not open for debate. However, prompted by the concerns of conservation bodies desperately trying to beat the clock in a race to stave off the extinction of the world's remaining rhinos, the media sensationally identifies Vietnam as "the biggest hub in the world for trafficking in horns and other body parts of the rhinoceros" (Dixon 2016) and pointedly highlights that the trade continues because Vietnam fails to tackle the problem at a policy making level. Indeed, the attention on the destructive nature of the rhino horn trade, is highlighted by the Hollywood actor, Jared Leto writing for TIME magazine as the World Wildlife Fund Global Ambassador, who calls for Vietnam to "begin treating wildlife crime as a serious crime", and to implement "strict penalties that flip the risk-reward scale for would-be criminals" (Leto and Roberts, 2016).

Media reports perpetuate the distorted notion that wildlife crime is generally considered to be a serious organised crime which generates huge profits (Bergenas and Knight, 2015: 120) due to the attractive high profit to low risk ratio (Zimmerman 2003: 1659). Such characterisations of serious criminal activity and how to combat it, "make it difficult for crime reduction experts to overcome the stereotype" of organised crime and "consequently, it becomes more difficult to convince policy makers and police agents in areas where species are being poached and trafficked that locals may be actually responsible" (Pires, Schneider & Herrera, 2016: 7).

4 Going Local: Wildlife Crime in Vietnam

Situated in South East Asia, Vietnam shares 1000 miles of borders with China, Cambodia and Laos. Policing such a colossal border inevitably means that the Vietnamese Border Defence Force, (of the Vietnam People's Army) is swamped with the formidable task of combating wildlife crime. Criminals specialising in wildlife crime trafficking (Lilley, 2003: 65) are enabled by Vietnam's vulnerable and unmanned cross-border wilderness areas (UNODC, 2010). According to Van Dijk and Spapens (2014), Vietnamese crime networks operating at the international level, enable the movement of rhino horn from

Africa into Vietnam. Additionally, the expansion of road transportation links throughout the Greater Mekong Sub-region enables a greater ease of wildlife trafficking within the tri-border area of Cambodia, Laos and Vietnam (Elliott, 2014: 21).

4.1 Wildlife Crime: Locals as Traffickers

Supporting the author's theory that the majority of those involved in Vietnam's illicit wildlife trade are low level criminals, the interviewees assert that it is *en passant* actors - the mules, street dealers and traffickers - who are more likely to be convicted of wildlife crimes rather than the kingpins identified in the media hyperbole (Russell, 2015). Indeed, the strong involvement of local low level traffickers is articulated by the interviewees:

We did a judicial review looking at criminal cases involving wildlife (...) that review clearly showed that nobody's going to jail except for low level people (...) on the source side of the trade network. No kingpins, no major middle men, no figures of any significance whatsoever. So mules, drivers and hunters basically. (F)

Predominantly, I would say its Vietnamese nationals [who are the main perpetrators of local wildlife crime]. (B)

Clearly Vietnam is complicit in the trafficking and there's significant consumption so I would say the role of foreigners inside Vietnam with regards to various wildlife crimes is minimal. (G)

There aren't foreign people operating in Vietnam. The Vietnamese nationals are collaborating with foreign nationals in other countries, absolutely. But within the boundaries here, it's Vietnamese people. (D)

[The issue is] home-grown environmental crime...where local wildlife is poached and smuggled. Rhino horn and elephant ivory do require some foreign interventions. (E)

All of the interviewees concur that wildlife crime investigations end once the low tier criminals have been caught and products seized. This is a frustration the interviewees recognise, as prosecution to conviction rates remain very low – although according to one interviewee, “arrest and prosecution [rates of wildlife criminals] is probably one of the highest in the world” (D):

[I]f you're serious about tackling the illegal wildlife trade, it's not very easy to do. It's easy to go into restaurants and raid properties and seize some stuff, but to really get behind the higher levels of these trafficking chains and understand who's behind it and investigate or prosecute those individuals, it's quite complex. I don't think that capacity is very well developed in Vietnam at the moment. (B)

Prosecution to conviction is really low... Arrest and prosecution is high because most of the cases if you like that start, they're either caught red-handed, like here's a man with a rhino horn in his hands, busted. (D)

4.2 Rhino Horn: Locals as Consumers

Hobbs paraphrasing Latour (1993) wrote in 1998 that organised crime is "local at all points" (419). If international policy makers are to persist with the notion that wildlife crime is organised crime, then they must pay attention to the phenomenon at the local level in order to guide and inform future policy considerations. There is no doubt that Vietnam is a destination country for rhino horn which has been poached illegally and trafficked from Africa. Indeed, the consumer led local demand for the product is something which all the interviewees concur on:

[The Vietnamese] are the foremost consumer of rhino horn, they are a major transit country for the illicit wildlife products heading to China and they've got massive stockpiles of seized products. (A)

Expanding on the subject of Vietnam as a transit and destination country for rhino horn, participants confirm that:

Vietnam is a transit route to China and possibly other countries in South East Asia, but there's also a big market within Vietnam itself, so it's also a consumer nation for endangered wildlife. (B)

Rhino horn consumption I understand is more prevalent in Ho Chi Minh City where there's a longer tradition there for use of rhino horn for medicinal purposes. I think in the north consumption is more related to status, more nouveau riche, more recent. (G)

You have consumption concentrations based in urban areas with particular emphasis on Hanoi and Ho Chi Minh. (F)

In light of the testimonies above, it is notable that the Environmental Investigation Agency (EIA, 2013: 5) and the CITES Secretariat (2012: 6) confirm that demand is driven by the newly affluent Vietnamese.

Specifically, with the status-seeking *nouveaux riches* provoking a trafficking surge in rhino horn products, the UNODC asserts that this high profit, yet low risk trade, may explain the increase in cash seizures at Vietnamese borders since 2012, as it is possible that a proportion of the smuggled cash being seized by Vietnamese Customs are the proceeds of the rhino horn trade (UNODC, 2014). As already highlighted above, the assumption by international law making bodies that the rhino horn trade in Vietnam generates huge cash profits for criminal networks, is underpinned by the rhetoric that wildlife crime, much like drug trafficking (South and Wyatt, 2011), generates unquantifiable profits and it is typical for large cash amounts to be produced by organised crimes.

The spike in demand for rhino horn may also be because of its false advertisement in 2005, as a cure for cancer, when a Vietnamese Government official claimed he had been cured of the illness (Watts, 2011). This is confirmed by one interviewee who states: “You know a few years back a Ministry of Public Security Vice Minister said that rhino horn cures cancer; you can’t unsay these things” (A). Another interviewee states, “this is why demand completely went through the roof...there are probably still people who think they can cure cancer with it” (B). According to the World Wildlife Fund, such a claim caused the extinction of the Javan rhino in Vietnam in 2010 (WWF, 2015).

At the wider level, the EIA, TRAFFIC and the CITES Secretariat recognise that Vietnamese consumers use rhino horn for a range of cure-all purposes (Milliken and Shaw, 2012: 15; CITES, 2012: 6; EIA, 2013: 5). Rhino horn as a status-enhancing medicine for the “very wealthy Vietnamese middle class” (B) is corroborated by the interviewees, although its ability to work as a hangover cure is rooted in the strength of belief that the consumer has in its supposed curing properties:

[I]t’s [rhino horn] also being used as a hangover cure and I bet if you’re really convinced that it will help, then it will help to cure your hangover. (B)

The variety of uses for rhino horn, are confirmed in a 2012 TRAFFIC report on the South Africa-Vietnam rhino horn trade. The report identifies four consumer groups in Vietnam who drive demand (Milliken and Shaw, 2012: 134-138). First, those who use it as traditional medicine to cure illnesses including cancer (Milliken and Shaw, 2012: 116-117). Second, are the affluent young Vietnamese who consider rhino horn to

be a status symbol, as well as an aphrodisiac, and cure for a hangover. Third, the middle-upper income mothers who self-medicate and administer rhino horn to their children. The fourth group, (following the traditional Vietnamese culture of using gifts to gain favour from businessmen and politicians) uses rhino horn as an expensive high-end ‘gift of life’ (Milliken and Shaw, 2012: 137; Doshi, 2014).

The strong consumer market for rhino horn in Vietnam is perpetuated by a false belief in its medicinal properties, and may ultimately cause the extinction of the world’s remaining wild rhinos.

4.3 Rhino Horn: As Local Currency

In their seminal work on the subject, Milliken and Shaw (2012: 137) assert that rhino horn works as purchase currency, especially for luxury goods and is used as a down payment on cars. In Vietnam, rhino horn is used as a medium of exchange and the illegal tender interacts with the mundane transactions of the everyday person, allowing those dealing in the product to easily acquire chattels, properties and vehicles – without the need for cash.

Bartering with illegal wildlife products is not uncommon. In Africa, the Lord’s Resistance Army, (spread across the Democratic Republic of Congo, Central African Republic and southern Sudan) is believed to barter with ivory and rhino horn in exchange for military equipment (Navanti Group, 2013). Wasser, Clark and Laurie (2009: 68-76) report that ivory poachers use “large volumes of wildlife products as barter currency for [...] weapons and ammunition”. Karanja (2012: 74-80) also corroborates that, “wildlife products are used as a currency to barter for small arms, light weapons, and drugs”. Using illegal wildlife products as currency, means that for the criminal, the risk of detection is low as they will offload trafficked items quickly and without a paper trail (Wasser, Clark, Laurie, 2009).

4.4 Wildlife Crime: Local Participation in an Attempt to Overcome Poverty, Enable Upward Mobility and Pay for Subsistence

In Vietnam, a cash-based economy (Nguyen, 2013: 321), street criminals who traffic and trade in illegal wildlife products rely on the profits to fund basic living expenses. The nexus between low level criminals,

wildlife crime and subsistence is reinforced by Donovan (1999: 2) who states that the biggest threat to endangered species is the need to overcome poverty, as cash-hungry citizens rely on the forest environment to provide them with income (Nuwer, 2015). Supporting the author's argument that it is the poverty-stricken Vietnamese and those who are seeking illegal enterprise opportunities in order to become upwardly mobile, who are the main perpetrators of wildlife crime, one interviewee states:

I don't want to say it's good, but obviously a huge portion of Vietnam's rapid growth in wealth relates in part to people violating the law...this is not a problem which is exclusive to wildlife crime...the country works this way, it is in the teething process of development. (F)

Furthermore, low level criminals are generating illicit income for subsistence:

I do think that is true for most of the people arrested carrying rhino horn from Africa to Vietnam. (G)

Reinforcing the theory that the proceeds of wildlife crime are used for subsistence, the interviewees identify that criminal participants belong to the most marginalised and vulnerable sectors of Vietnamese society; simply put, they are informal participants who are just trying to survive:

[T]he kids who have been arrested for rhino horn crimes, students, migrant workers...they're not really savvy and they're persuaded, look we'll give you \$500 if you carry this rhino horn and give it to this guy. (D)

Anecdotal evidence highlights that vulnerable and exposed Vietnamese nationals who are studying and/or working in Africa are coerced into trafficking wildlife products back into Vietnam:

They are studying or working in African countries where the coercion takes place to carry it back. (D)

Referring to general anti-money laundering policies to combat organised crime, Naylor (2003: 267) argues that the majority of career criminals are "down-and-outs rather than billionaire narco-barons". Adopting Naylor's viewpoint, it follows that the majority of wildlife criminals in Vietnam are usually low level traffickers trying to escape poverty and rarely will their offences fall within the remit of organised crime. In particular the structure of the rhino horn trade in Vietnam correlates with Naylor's supposition and is further supported by Harrison et al (2015: 8) who acknowledge that the link between, "poverty and wildlife crime

[needs] to be empirically assessed”. Although there are numerous arrests of small-time wildlife criminals in Vietnam, these minor players would be superfluous to the overall functioning of any existing criminal network because they are substitutable. Simply put, criminal networks in Vietnam create difficulties for law enforcers in terms of dismantling them, because the high turnover of low level traffickers creates an evolving criminal environment of “interdependent local units” (Hobbs, 1998: 419) which cannot be effectively regulated or policed.

The interviewees also underline that both rural villagers and the cosmopolites of Ho Chi Minh and Hanoi, are equally responsible for driving rhino horn demand. First, the interviewees suggest that it is the proletariat, through their consumption of rhino horn, who enable the creation of an illicit trade in the product. Second, the low level street traffickers, dealers and sellers who are driven by subsistence are the willing workforce who respond to the consumer demands of the proletariat and sustain an efficient illegal market. With regards the latter group of participants, the UNODC are candid in recognising that basic economic survival is a driver of wildlife crime (UNODC, 2012). Correspondingly, Harrison et al (2015: 8) report that, “[t]he lack of alternative sources of food and income [...] force vulnerable groups to rely on wildlife and forest resources for their existence”.

However, what is also clear from the interviews is that some Vietnamese actors engage in wildlife crime which transcends continental boundaries and is arguably transnational in nature. According to the interviewees, domestic criminals in Vietnam have strong transnational links with other criminals:

So talking about wildlife trade more specifically, we have Vietnamese, major Vietnamese figures which play significant roles in criminal networks that source animals from outside Vietnam from all over, as far away as South Africa and Canada, and bring them to Vietnamese consumers or transit them through Vietnam to China. (F)

Lending weight to the interviewee’s comments, the EIA (2013: 2-3) argues that “the involvement of Vietnamese nationals in the illegal trade is so blatant that South Africa has adopted new rules that prohibit the issuance of rhino hunting permits to Vietnamese nationals”.

While international law enforcement bodies are quick to reinforce that rhino horn poaching constitutes organised crime, it is nevertheless important to recognise that there are many instances whereby the nuances of day-to-day trafficking are not linked to one large criminal organisation. The UNODC in its Transnational Organised Crime Threat Assessment reiterates the significant role of the small-time criminal in sourcing rhino horn, but conversely, also highlights that these small fish may double up as transnational traffickers with buyers from Asia sourcing and trafficking wildlife products from Africa (UNODC, 2010). The recognition that participants in Vietnam's illegal wildlife trade are flexible and can undertake a number of active roles is supported by Hobbs' (1998: 417) theory of "hubs". Hobbs (1998: 417) identifies hubs as being individuals who possess the power to mutate according to the criminal environment and states that they "combine flexibility and mobility with crucial qualities of relationality" in order to "operate in an infinite variety of deviant collaborations".

The flexibility and ability to mutate according to their environment, also strengthens the position of the informal participant to move seamlessly between the illicit and licit worlds. Indeed, in Vietnam, those involved in the rhino horn trade are also "people that smuggle wildlife species across borders or importers in the larger shipments like business activity" (C). In the local context, illegal mirrors legal business and they also intertwine: "One of the really common things you see is jewellery businesses act as fronts for wildlife trafficking networks (...) Antique businesses, you know Buddhist trinkets and other things, is a front for wildlife trafficking and is a front for sending along the related proceeds". (C)

4.5 Wildlife Crime: Local Government and Lack of Political Will

2013 saw CITES members urge the Vietnamese Government to improve its law enforcement efforts and engage in rhino horn demand and consumption reduction (CITES, 2013: 22). However, the EIA states that Vietnam refuses to implement CITES recommendations (EIA, 2013: 3). Vietnam remains a country in denial because it refuses to acknowledge the major role of its nationals, as traffickers and consumers, in perpetuating the illegal rhino horn trade (Anh, 2015). The interviewees corroborate this head-in-the-sand approach and the negative attitudes of Vietnamese law enforcement authorities towards tackling wildlife crime, with the main concern being a lack of political will and awareness.

The accusation that Vietnam lacks the political will to combat the rhino horn trade is strengthened by an EIA publication highlighting the scant lip service paid by the Vietnamese Government to observe its own laws. Specifically, in 2015 the Bac Ninh provincial authorities auctioned 42 pangolins which had been seized from traffickers, despite the Vietnamese Prime Minister issuing a Directive to all Government ministries prioritising the combating of wildlife crime (EIA, 2015: 3). This underlines that the Vietnamese Government and its ministries have failed to abide by their own laws to prohibit wildlife crime – rather, they are perpetuating it. If this story is an indication of the poor attitude of the Government, then there is little hope that that there will be a tough crack down on the trade in rhino horn.

5 Suggestions to Combat the Rhino Horn Trade in Vietnam

5.1 Legalisation

Some of the interviewees feel strongly that legalisation is the only way to combat the illegal trade in rhino horn, conserve the rhino and counteract the ecological damage caused by poaching. Recognising that the retail price of rhino horn is driven by the rapid economic acceleration of South East Asia, a call to legalise the trade would have an immediate effect. Legalisation would work more quickly and effectively than an education programme to change the indoctrinated cultural beliefs of the consumers – something which could take years.

The legalisation of the rhino horn trade is supported by ecologists and conservationists who attribute Asia's consumer demand for the product as being responsible for the rising number of rhinos poached in South Africa. In 2000, seven rhinos were poached in South Africa compared to 668 in 2012 (Biggs et al, 2013). This dramatic increase in rhino poaching is a result of the trade being pushed underground following the CITES ban on rhino horn in 1977. To try and counter the huge surge in rhino poaching, Biggs et al “propose a “carefully regulated legal trade based on the humane and renewable harvest of horn from live white rhinos” (Biggs et al, 2013: 1038).

Legalising the trade would help to conserve the species in Africa. The alternative is that Africa's wild rhinos could be extinct within the next twenty years unless immediate action is taken (Biggs et al, 2013). Similar initiatives have been explored with regards the illegal ivory trade and at the 62nd meeting of the Standing Committee of CITES in Geneva, 23-27 July 2012, the possibility of creating a Central Ivory Selling Organisation (CISO), which would legalise the sale of confiscated ivory was mooted (Martin et al, 2012).

Such proposals are not without their critics. Opponents fear that legalising the trade in horn will increase poaching activities and compromise remaining rhino populations in Africa. Previous attempts to legalise the trade in other endangered species including poached vicuña fibre from Argentina, have been treated with caution. In their study of the vicuña, McAllister, McNeill and Gordon (2009: 120-130), highlight that a regulated international market would attract poached animals, warning that, "if community-based conservation is not implemented carefully then its impact can easily be perverse".

However, the interviewees who support legalisation of the rhino horn trade, are confident that removing the CITES restriction will generate enough revenue to pay for conservation measures and eliminate the need for a black market with inflated prices.

5.2 Education

Regardless of a possible legal trade in rhino horn, the author proposes that the Vietnamese Government needs strong, international, multi-agency collaborations to provide educational information on the illegal consumption of horn. Initiatives should build on pre-existing current awareness campaigns carried out by non-governmental organisations, for example, Wildlife Conservation Society (WCS), Education for Nature Vietnam (ENV) and intergovernmental organisations including the UNODC, which are all present in Vietnam. The author urges the implementation of multi-agency educational drives which have a top-down effect, whereby the strategy used to educate the Government would break down into compositional sub-systems – in this case, a series of sensitive and culturally aware programmes for the 58 provinces in Vietnam with each one tailored to address the specific trends of rhino horn usage within that province. Similar initiatives have been championed by the Clinton Foundation's Partnership to Save Africa's Elephants, in the context of the ivory trade, which sees a consortium of organisations working together, including the WCS,

African Wildlife Foundation, WWF, International Fund for Animal Welfare, The Nature Conservancy and Conservation International (Clinton Global Initiative, 2016).

Reducing the demand for rhino horn in Vietnam requires continuous efforts from working at the grass roots level, to changing the indoctrinated, cultural beliefs of Vietnamese consumers. Education as a solution to the illegal trade requires the wide dissemination of focussed literature in Vietnam. Such literature should highlight the scientific evidence that concludes rhino horn contains no medicinal properties (Still, 2003: 119). So too, must the intrinsic ecological value of conserving an endangered species such as the rhino be a repeated objective of educational campaigns.

5.3 Sustainable Livelihood Initiatives

Many of the Vietnamese who illegally traffic rhino horn from Africa to Vietnam are low level criminals who want to escape poverty and generate an income for subsistence. The inextricable relationship between wildlife crime and poverty is highlighted by the UN's 17 Sustainable Development Goals (SDGs), adopted by 193 Member States in September 2015 and officially launched in January 2016 as part of the 2030 Agenda for Sustainable Development. Specifically, the objective of SDG 15 is to “[s]ustainably manage forests, combat desertification, halt and reverse land degradation, [and] halt biodiversity loss” (United Nations General Assembly, 2030 Agenda for Sustainable Development, 2015: 25-26). One of the key targets of Goal 15 is to “[e]nhance global support for efforts to combat poaching and trafficking of protected species, including by increasing the capacity of local communities to pursue sustainable livelihood opportunities” (United Nations General Assembly, 2030 Agenda for Sustainable Development, 2015: 25-26).

If we congregate the variety of participants in Vietnam's criminal networks into a pyramid from loosely to tightly organised, at the bottom would rest the “groups of local farmers or indigenous peoples who hunt species for illegal sale to supplement their incomes” (Lin, 2005: 200). It is this group of participants – the poor and economically disadvantaged – who are the target demographic of SDG 15. Preceding the 2015 SDGs, at the thirteenth meeting of the Conference of the Parties (CoP13) to CITES in Bangkok in 2004, a paragraph was added to CoP Resolution Conf. 8.3 which, “recognizes that implementation of CITES-listing

decisions should take into account potential impacts on the livelihoods of the poor”. Therefore, any attempts to encourage diversification away from the illegal trade in rhino horn should, as an overriding objective, incorporate the need to improve the economic standing of some of the world's poorest people, bearing in mind that the majority of CITES-protected species are located in least developed countries.

6 Conclusion

The paper has explored, at the wider level, the general notion of wildlife crime as organised crime in Vietnam. Specifically, the author of the paper rejects the notion that wildlife crime can be easily classified as organised crime; both at the local level in Vietnam and within the broader international context. From a theoretical organised crime perspective, it can be surmised that organised crime and wildlife crime are not synonymous phenomena. Indeed, neither the legislative definitions contained within the local statutory instruments, nor the wildlife trade activities carried out by the local participants, fall within a satisfactory definition of what constitutes organised crime. While policy making bodies and the media seek to explicate strong links between the two – with the United Nations in May 2016 conducting the first global assessment of wildlife crime as organised crime in its World Wildlife Crime Report – until now it was not openly known or acknowledged that at the local level, the wildlife trade in Vietnam is primarily facilitated by low level traffickers who are driven by poverty and the need to overcome it.

Although recent efforts by Vietnam are evidence of a country taking steps to combat wildlife crime – specifically the rhino horn trade – the interviews and research conducted for the article illustrate the deep-rooted nature of this problem particularly in the context of Vietnam’s dominant position as a destination and consumption country. Currently, there are some education campaigns raising awareness of rhino horn in Vietnam. However, the author strongly advocates additional campaigns that target different consumer demographics in Vietnamese society and if successful, such projects could contribute to reducing the demand for rhino horn and help to save a species from extinction. Capacity building, including strengthened conservation efforts and the effective enforcement of domestic legislation will also help to continue the fight against wildlife crime and money laundering in Vietnam.

Recalling the comments of Chamberlin (1931-2: 669) and latterly Woodiwiss (1999: 3) it may be seen that policy making idealists have “supplied the pavement for the hell of organized crime”. The author does not support claims that harmonised international policy responses are always the most effective ways to address issues that have significant local and regional dimensions. The international war on drugs has had, for example, many counter-productive results at both the local and regional levels. The campaigns to combat wildlife crime, and more specifically the illegal trade in rhino horn have, as in the case of the drugs war, been accompanied by misleading claims about the structure of the trade that tend towards bias and make too many non-testable assumptions. It is clear that international crime control legislation is in reality largely ineffective in application as evidenced by the continual media coverage of Vietnam as a top consumer country for illegal wildlife products. In fact, applying policy making pressure at the international level to a local or regional problem, restricts the evolution of appropriate wildlife crime laws at the national level and could justify an escalating “war on wildlife crime”, much akin to the failed “war on drugs”.

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