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Implementation of CITES in Tanzania: Fairytale or Promising Journey? An Analysis of Legal Framework and Practice

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Tanzania is rich in natural resources and home to one of Africa's largest networks of wildlife-protected areas, including over 1,000 bird species and the world's largest elephant population. As a dedicated wildlife conservation advocate, Tanzania ratified the Convention on International Trade in Endangered Species (CITES) in 1979 and became a party in 1980. The Wildlife Conservation Act (WCA), enacted in 1974 and revised in 2009, along with CITES-specific regulations from 2005, guide Tanzania's conservation efforts. Using both descriptive and normative research legal approaches, this article expounds the Country's implementation with CITES. It notes that, while the country generally complies with CITES obligations by designating authorities and regulating trade, challenges remain in maintaining trade records, reporting, and controlling illegal wildlife trade. Since 2015, political will to enforce wildlife laws has increased, but Tanzania still faces constraints in human and financial resources, limited capacity to investigate wildlife crimes, and lack of awareness among communities and law enforcement agencies. Additionally, weaknesses in Zanzibar's legal framework hinder conservation effectiveness. Despite these issues, Tanzania has the potential to improve CITES enforcement by enhancing resource allocation, legal reforms, and regional collaboration. Community involvement in conservation efforts is key to achieving sustainable management of the country's rich natural heritage.

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INTRODUCTION

International trade of endangered species is one of the major environmental concerns of recent times.¹ It is placed in the same category in terms of contribution to the loss of biodiversity with factors such as habitat loss, overexploitation for economic gain and climate change.² This trade involves players from both developed and developing economies the with the former commonly being major markets and latter being the main sources of the species and their products. In the recent times, the Asian countries have become progressively the largest markets for endangered species and their derivatives.³

For purpose of this article, endangered species include all such species feared to be seriously

heading towards disappearance.⁴ Species would also be ones that considered to be endangered if they are very sparsely distributed whereby their numbers are not sufficient for survival in the long run.⁵ Globally the number of such species has been constant rise. For example, in the year 2022, a total of 42,108 out of 50,388 species assessed International Union for Conservation of Nature (IUCN) were considered to be endangered and placed in the Red list.⁶ The available information indicates an increase in the number of all kinds of species that are considered to be in danger of extinction.⁷

International trade in some species of flora, fauna and their derivatives has been in existence in the world from ancient times.⁸ In recent times, the trade

¹ Brown, J. L. (1997). Preserving species: The Endangered Species Act versus ecosystem management regime, ecological and political considerations, and recommendations for reform. *J. Envtl. L. & Litig.*, 12, 151. See also Dell'Amore, C. (2014). Species extinction happening 1,000 times faster because of humans?. *National Geographic*, 30.

² Butchart, S. H., et al (2006). How many bird extinctions have we prevented?. *Oryx*, 40(3), 266-278; Hoffmann, M. et al (2010). The impact of conservation on the status of the world's vertebrates. *Science*, 330(6010), 1503-1509.

³ Outhwaite, W., & Brown, L. (2018). Eastward bound: Analysis of CITES-listed flora and fauna exports from Africa to East and Southeast Asia 2006 to 2015. *TRAFFIC International, Cambridge, UK*.

⁴ Black, H. C. (2009). Black's law dictionary. 9-th ed. *St. Paul, Minn.: Thomson Reuters*. p. 1528.

⁵ IUCN, S. S. C. (2001). IUCN Red List categories and criteria: version 3.1. *Prepared by the IUCN Species Survival Commission*. pp 5-10.

⁶ IUCN. (2023) . Summary Statistics. <https://www.iucnredlist.org/resources/summary-statistics#Summary%20Tables>

⁷ Factors influencing change in the list are non-genuine factors including availability of new information on the species last assessment (e.g., more recent data are available on population

sizes, threatening processes, rates of decline or recovery, etc.); taxonomic revision resulting in the species no longer being the same concept as it was before (e.g., it is now split into several species each with smaller ranges, population sizes, etc.; or it has been merged with other species so the range, population size, etc. are now larger than they were previously). Other factors include discovery of an error the previous assessment (e.g., the wrong information was used; the IUCN Red List categories and criteria were applied incorrectly; etc.); and changes in criteria used in the assessment compared to the last assessment. Genuine reasons include the fact that main threats are no longer present, or conservation measures (e.g., reintroduction, habitat protection or restoration, legal protection, harvest management, etc.) have successfully improved the status of the species enough to down list it to a lower category of threat; or situations where the main threats have continued unabated, have increased, or new threats have developed causing the status of the species to deteriorate enough to move it into a higher category of threat.

⁸ Helpman, E. (2012). International trade in historical perspective. *Onassis Prize Lecture*. https://www.bayes.city.ac.uk/_data/assets/pdf_file/0004/141295/E-Helpman-Presentation.pdf; Hughes JD. 2003. Europe as consumer of

has become one of the lucrative businesses in the world being driven by high profit margins.⁹ Establishing exact value of the trade particularly illegal trade is challenging and researchers have had challenge in concluding its value.¹⁰ They generally conclude the business wildlife trade has turned into a multi-billion-dollar industry, second in value to narcotics smuggling as far as illegal trade is concerned.¹¹ In recent times, the value of illegal trade of wildlife (excluding logging and fisheries) has been estimated to be around USD. 7- 23 Billion annually.¹² The constant increase in the endangered species trade is directly linked to an increased demand for fashion products derived from such species and the demands for perceived medical needs.¹³ This trade impacts the biodiversity of the countries where such species are taken, denies the

legal use of natural resources to the communities where the species are found and escalates conservation costs. It has led to spread of contagious diseases and is linked to other serious organized crimes such as robbery, terrorism and drug trafficking and illegal arms dealing.¹⁴

Several national and international initiatives with objective of regulating legal trade and curbing illegal trade in wildlife and wildlife products have been instituted since hundred years.¹⁵ Internationally, one of such actions is the adoption of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The United Republic of Tanzania is one the signatories of this convention since 27 February 1980.¹⁶ In this article an examination of how far the

exotic biodiversity: Greek and Roman times. *Landscape Res.* 28:21–31

⁹ Liljeblad, J. (2008). Finding another link in the chain: International treaties and devolution to local law enforcement in the case of the Convention on the International Trade in Endangered Species. *S. Cal. Interdisc. LJ*, 18, 527. p. 527. See also Duffy, R. (2016). EU trade policy and the wildlife trade. [https://www.europarl.europa.eu/RegData/etudes/STUD/2016/578025/EXPO_STU\(2016\)578025_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2016/578025/EXPO_STU(2016)578025_EN.pdf)

¹⁰ Challender, D. W., Brockington, D., Hinsley, A., Hoffmann, M., Kolby, J. E., Massé, F., ... & Milner-Gulland, E. J. (2022). Mischaracterizing wildlife trade and its impacts may mislead policy processes. *Conservation Letters*, 15(1), e12832.

¹¹ Liljeblad, J. (2008). Finding another link in the chain: International treaties and devolution to local law enforcement in the case of the Convention on the International Trade in Endangered Species. *S. Cal. Interdisc. LJ*, 18, 527. p. 527. See also Rosen, G. E., & Smith, K. F. (2010). Summarizing the evidence on the international trade in illegal wildlife. *EcoHealth*, 7(1), 24-32. p. 24. Fukushima, C. S., Mammola, S., & Cardoso, P. (2020). Global wildlife trade permeates the Tree of Life. *Biological Conservation*, 247, 108503; 't Sas-Rolfes, M., Challender, D. W., Hinsley, A., Veríssimo, D., & Milner-Gulland, E. J. (2019). Illegal wildlife trade: Scale, processes, and governance. *Annual Review of Environment and Resources*, 44, 201-228.

¹² Nellemann C, Henriksen R, Raxter P, Ash N, Mrema E. 2014. *Environmental Crime Crisis: Threats to Sustainable Development from Illegal Exploitation and Trade in Wildlife and Forest Resources*. Nairobi, Arundel: UNEP, GRID; Fukushima, C. S., Tricorache, P., Toomes, A., Stringham, O. C., Rivera-Téllez, E., Ripple, W. J., ... & Cardoso, P. (2021). Challenges and perspectives on tackling illegal or unsustainable wildlife trade. *Biological Conservation*, 263, 109342; Cooney, R., Kasterine, A., MacMillan, D., Milledge, S. A., Nossal, K., Roe, D., & John't Sas-Rolfes, M. (2015). *The trade in wildlife: a framework to improve biodiversity and livelihood outcomes*.

International Trade Centre; Wyler, L. S., & Sheikh, P. A. (2008, August). International illegal trade in wildlife: threats and US policy. Library of Congress Washington DC Congressional Research Service.

¹³ United Nations Environment Programme. (2014). *UNEP Year Book 2014: Emerging issues in our global environment*. United Nations Environment Programme. see also Britannica's advocacy for animals, traditional chinese medicine and endangered animals.[2007, October 22]

<http://advocacy.britannica.com/blog/advocacy/2007/10/traditional-chinese-medicine-and-endangered-animals/> ; Rosen, G. E., & Smith, K. F. (2010). Summarizing the evidence on the international trade in illegal wildlife. *EcoHealth*, 7(1), 24-32. See also TRAFFIC (2008). The wildlife trade monitoring network, our work: wildlife trade. *TRAFFIC* <http://www.traffic.org/trade>

¹⁴ Sina, F. E. C. (2023). *Convention on international trade in endangered species of wild fauna and flora and its implementation in the United States of America, the European Union, Tanzania, India and Colombia: a study on the implementation of obligations under a multilateral environmental agreement*. [Doctoral Thesis, Maastricht University]. <https://doi.org/10.26481/dis.20230612fs>

¹⁵ Sand, P. H. (2017). International protection of endangered species in the face of wildlife trade: whither conservation diplomacy?. *Asia Pacific Journal of Environmental Law*, 20(1), 5-27; The first 'area-based' conservation accords was proposed more than a hundred years ago in US President Theodore Roosevelt's (unsuccessful) project of a 'Hague Peace Conference on Nature Conservation' in 1909. See also Mitchell, R. B. (2003). International environmental agreements: a survey of their features, formation, and effects. *Annual Review of Environment and Resources*, 28(1), 429-461; Ciriacy-Wantrup, S. V. (1968). *Resource conservation: Economics and policies*. Univ of California Press.

¹⁶ <https://cites.org/eng/disc/parties/chronolo.php>

country has implemented the convention, its successes, issues impacting implementation and suggest how best the country and other jurisdiction can better enforce the spirit of the convention.

Methodology

This article uses both descriptive and normative research approaches. The article uses data from primary and secondary sources. The descriptive approach encompasses practical reflection of the application of regulations in domestic settings of the selected jurisdictions through field research findings as well as information gathered from the existing literature. It also involves the analysis of laws and information as described above. In this article descriptive approach is used where relevant literature and existing studies are used as primary sources of information to describe the extent of the problem and for the provision of the conceptual framework of the study.

Legislative materials and relevant information from organizations responsible for the control of international trade such as the CITES Secretariat (minutes of the CITES meetings, reports by the CITES Secretariat, documents circulated by the CITES parties) are used. Furthermore, information from the Ministries responsible for wildlife conservation and law enforcement authorities is used to ascertain issues (legal and administrative) impacting the implementation of the Convention.

Normative legal approach is employed where legal rules are explored, legal principles and doctrines of

laws are expounded and the researcher's arguments are put forward.¹⁷ In this article, the normative approach is employed in the analysis of rules, principles and doctrines governing international trade in endangered species.

CITES: AN OVERVIEW

Background

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)¹⁸ is an international agreement between governments with the objective of ensuring that international trade in specimens of wild animals and plants does not threaten their survival.¹⁹ This agreement, also known as the Washington Convention, is one of the most ratified multilateral environmental agreements²⁰, with 184 contracting parties now.²¹

The convention was concluded following the Washington Conference in Washington DC on 3rd March 1973. The text of the convention reflects the compromise between two competing camps with the first advocating wildlife trade to be controlled or banned based on global lists of threatened species to be up and updated (in line with Red Data Book) upon advice by an international expert committee.²² The second camp advocated for the right of each range State to determine its list of endangered species.²³ This Convention is regarded as a conservation and trade instrument aimed at protecting wild fauna and flora for benefits of the present and future generations.²⁴ It is also acclaimed

¹⁷ Christiani, T. A. (2016). Normative and empirical research methods: Their usefulness and relevance in the study of law as an object. *Procedia-social and behavioral sciences*, 219, 201-207.

¹⁸ Convention on International Trade in Endangered Species of Wild Fauna and Flora, Washington, March 03, 1973, United Nations Treaties Series, Volume Number 993 (p.243). <https://treaties.un.org/pages/showDetails.aspx?objid=0800000280105383>

¹⁹ See CITES. [2020, April 20]. What is CITES? CITES. <https://www.cites.org/eng/disc/what.php>; Wijnstekers, W. (2003). *The evolution of CITES*. Geneva, Switzerland: CITES Secretariat. p. 15.

²⁰ Brown, D., & Swails, E. (2005). Comparative Case Study 3. p.3.

²¹ Ibid. The current status of members can be found at CITES. [2020, July 28, 2021], <https://www.cites.org/eng/disc/Parties/index.php>

²² Sand, P. H. (1997). The Whither CITES-The evolution of a treaty regime in the borderland of trade and environment. *Eur. J. Int'l L.*, 8, 29.pp. 32-33.

²³ Ibid.

²⁴ Hill, K. D. (1990). The Convention on International Trade in Endangered Species: Fifteen years later. *Loy. LA Int'l & Comp. LJ*, 13, 231.

to be the Magna Carta for Wildlife' by conservationists.²⁵ The Convention has institutionalized the core idea embodied in the 1933 London Convention, which subjected all wildlife imports, including trade with third parties to mandatory licensing with permits to be issued by the exporting countries.²⁶

CITES is applauded as an attempt to protect endangered species from the over-exploitation caused by the unregulated international wildlife trade by establishing a compromise between the profitable wildlife business and the disappearing resources.²⁷ This balance is accomplished by the imposition of an obligation to the parties to control their wildlife imports and exports by self-made regulations that are required to be consistent with the terms of the Convention.²⁸ CITES has been depicted as a standard instrument of social regulation intended to promote responsible behavior in situations where it might not have otherwise occurred.²⁹ The framework established by CITES is intended to function as a controlling or limiting instrument to international trade in endangered species and help generate information that helps keep track of the international trade in endangered species.³⁰

CITES is different from other recent multilateral environmental agreements (MEAs) primarily in its enforcement mechanism. The Convention has neither implementation nor a compliance committee

like other MEA's. Additionally, it does not have a specific article requiring the development of procedures to address compliance with its provisions. Its current compliance framework has creatively evolved through resolutions and decisions of the Conference of the Parties (CoP) and practice (the secondary rules).³¹ This has evolved based on broad provisions set out in various articles of the Convention for over the three decades³² Currently, CITES works through several established institutions namely the COP, the Standing Committee and the CITES Secretariat.³³

CITES Appendices

CITES lists species in three Appendices according to the degree of protection they are to be given.³⁴ A three-tier system of Appendices I, II and III was original categorization criteria were prescribed during the 1st CoP in 1976 (the Berne criteria) and subsequently modified at the 9th CoP in 1994 (the Fort Lauderdale criteria).³⁵ All subsequent official listings are required to be agreed upon at the CoP and periodically reviewed.³⁶ A two-thirds majority of the CoP is required to agree to a new listing or a change.³⁷

CITES system of appendices requires some permits/certificates to be issued before specimens listed in such appendix can either enter or leave the countries. Regulatory classification of species requires both scientific and policy approaches.³⁸ In

²⁵ Layne, E. N. (1973). Eighty nations write Magna Carta for wildlife. *Audubon Magazine*, 75(3), 99.; King, F. W. (1974). International trade and endangered species. *International Zoo Yearbook*, 14(1), 2-13.

²⁶ Sand, P. H. (1997). The Whither CITES-The evolution of a treaty regime in the borderland of trade and environment. *Eur. J. Int'l L.*, 8, 29. pp. 34-35.

²⁷ Patel, S. (1995). The Convention on International Trade in Endangered Species: enforcement and the last unicorn. *Hous. J. Int'l L.*, 18, 157.

²⁸ See for example article II & III of CITES.

²⁹ Kosloff, L. H., & Trexler, M. C. (1987). The Convention on International Trade in Endangered Species: No carrot, but where's the stick. *Envtl. L. Rep. News & Analysis*, 17, 10222.

³⁰ Sands, P. J., & Bedecarre, A. P. (1989). Convention on International Trade in Endangered Species: The role of public interest non-governmental organizations in ensuring the

effective enforcement of the ivory trade ban. *BC Env'tl. Aff. L. Rev.*, 17, 799.p.801.

³¹ Reeve, R. (2006). Reeve, R. (2006). Wildlife trade, sanctions and compliance: Lessons from the CITES regime. *International affairs*, 82(5), 881-897.

³² Ibid.

³³ CITES. (2021, July 07). The structure of CITES retrieved from <https://cites.org/eng/disc/org.php>

³⁴ Brown, D., & Swails, E. (2005). Comparative Case Study 3. pp.3-4.

³⁵ Ibid.

³⁶ The new CITES listings become effective on June 12, 2013. See <http://www.cites.org/eng/app/index.php>.

³⁷ CITES, Article XI.

³⁸ Cummings, J. W., Converse, S. J., Smith, D. R., Morey, S., & Runge, M. C. (2018). Implicit decision framing as an

practice, parties to CITES have an opportunity to submit proposals to amend CITES Appendices (i.e., listing new species or changing existing listings). This is usually every three years. Listings can result in the prohibition (Appendix I) or require international trade to be legal, sustainable, and documented (Appendix II).³⁹

The Treaty's Obligations

CITES like many other MEAs is not a self-executing treaty. Implementation of the Conventions obligations require policy, power, rights, duties and procedures to be set out in the parties' domestic law(s).⁴⁰ Effective implementation of CITES is not possible in the absence of adequate legal measures at the national level.⁴¹ The latter comprises the existence of provisions that create specific obligations for private persons, enforceable in the domestic courts, and sanctions for non-compliance as explicitly stipulated in the domestic laws.⁴²

The Conventions key obligations to its parties are: Designating Management and Scientific Authorities; Permitting trade in CITES-listed specimens only to the extent consistent with the procedure set out in the the Convention; Taking appropriate domestic measures to enforce the

provisions of the Convention and prohibit trade in violation thereof and Maintaining records of trade and submitting periodic reports; Responding to communications by the Secretariat related to information that a species in Appendix I or II is being adversely affected by trade.⁴³ Similarly, all countries that are Parties to the Convention are obliged to contribute to the CITES operations costs through Trust Fund and comply with CITES quota systems (established through significant trade review and is voluntary).⁴⁴

Most of the CITES parties have laws (legal instruments) seeking to enforce the Convention. The major setback is the willingness and readiness of such parties to implement such instruments. Several studies have pointed out that most parties face a shortage of financial and human resources as well as limited awareness among their officers of various scientific and technical matters related to the Convention (e.g. the capacity to identify subspecies or taxonomical classifications of species).⁴⁵

Other issues impairing effective enforcement of the Convention include poverty of local communities, lack of commitment and corruption, and limited financial and human resources in the law

unrecognized source of confusion in endangered species classification. *Conservation Biology*, 32(6), 1246-1254.

³⁹ Friedman, K., Braccini, M., Bjerregaard-Walsh, M., Bonfil, R., Bradshaw, C. J., Brouwer, S., ... & Yokawa, K. (2020). Informing CITES Parties: Strengthening science-based decision-making when listing marine species. *Fish and Fisheries*, 21(1), 13-31.

⁴⁰Basic principles of legislation to implement CITES available at [http://www.nre.gov.my/ms-my/Biodiversiti/BioD%20Knowledge/CITES_Chapter05-National%20Legislation-18-02-09%20\[Read-Only\]%20\[Compatibility%20Mode\].pdf](http://www.nre.gov.my/ms-my/Biodiversiti/BioD%20Knowledge/CITES_Chapter05-National%20Legislation-18-02-09%20[Read-Only]%20[Compatibility%20Mode].pdf); Mulliken, T. (2009).

The role of CITES in controlling the international trade in forest products: implications for sustainable forest management. *Non-Wood Forest Products Working Document*, (7). pp 1-5

⁴¹ Ibid.

⁴² De Klemm, C. (1993). *Guidelines for legislation to implement CITES* (No. 26). IUCN. p. 6.

⁴³CITES. *Compliance Procedures*. Resolution Conf. 14.3. Retrieved from http://www.nre.gov.my/ms-my/Biodiversiti/BioD%20Knowledge/CITES_Chapter10-Compliance-25-02-09.pdf.

⁴⁴ Ibid.

⁴⁵ Merem, E. C., Twumasi, Y., Wesley, J., Isokpehi, P., Fageir, S., Crisler, M., ... & Nwagboso, E. (2018). Assessing the menace of illegal wildlife trade in the sub Saharan African region. *Advances in Life Sciences*, 8(1), 1-25 ; Wandesforde-Smith, G. (2016). Looking for law in all the wrong places? Dying elephants, evolving treaties, and empty threats. *Journal of International Wildlife Law & Policy*, 19(4), 365-381. p.368; Abotsi, K. E., Galizzi, P., & Herklotz, A. (2016). Wildlife crime and degradation in Africa: An analysis of the current crisis and prospects for a secure future. *Fordham Environmental Law Review*, 27(3), 394-441.p.433; Akella, A. S., & Allan, C. (2011). Dismantling wildlife crime: Executive summary. *Traffic*, 2012(15); Fiadjoe, Y. (2004). CITES in Africa: An examination of domestic implementation and compliance. *Sustainable Dev. L. & Pol'y*, 4, 38; DLA Piper (2014). DLA Piper (2014). Empty Threat: Does the law combat illegal wildlife trade? A review of legislative and judicial approaches in fifteen jurisdictions. DLA Piper, London. p.4; Schneider, J. L. (2008). Reducing the illicit trade in endangered wildlife: the market reduction approach. *Journal of Contemporary Criminal Justice*, 24(3), 274-295.

enforcement agencies. There are also challenges associated with technological development, including internet-based communication, which hinder enforcement efforts.⁴⁶

Despite the challenges, the Convention can be argued to be a work in progress in terms of attaining its objectives. Its existence has a significant political and legal implication. It is likely to positively influence behavioural change among its parties particularly through increased conservation efforts with the aim to prevent threats of extinction due to unregulated and unsustainable commercial utilization.⁴⁷ The convention has contributed to great awareness of conservation issues, improved domestic implementation measures, and arguably reduced demands for some products of endangered species.⁴⁸ CITES has a significant role in enhancing cooperation among parties in line with emerging technologies for tracing and identifying trade in endangered species.⁴⁹

IMPLEMENTATION OF CITES IN TANZANIA

The Country

The United Republic of Tanzania (Tanzania) is one of the East African countries. It was formed out of the union of two sovereign states namely Tanganyika (now also famously referred to as Tanzania Mainland) and Zanzibar.⁵⁰ The country

has the largest wildlife protected area network which is estimated to cover 233,300 Sq. Km which almost equal to 28% of its land surface area.⁵¹ The country is bestowed with abundant natural resources. It is home to rare species of fauna and flora. It's the present network of wildlife Protected Areas (PAs) in Tanzania is comprised of 16 national parks, the Ngorongoro conservation area, 38 game reserves, and 43 game-controlled areas.⁵² It has the largest game reserve in Africa with the widest variety of wildlife compared to others in Africa. It has over 1000 species of birds and the largest population of elephants in the world. It is the home to the Ngorongoro Crater (the world's largest intact volcanic caldera and a famous safari destination in Africa with the highest density of wildlife), the Nyerere National Park Tanzania (Selous Game Reserve) which is the largest wildlife reserve in the world) and an area that has been declared to be a world heritage site.⁵³

Despite its membership to CITES, and the fact that the country has had instruments seeking to enforce the convention, several cases have been reported related to endangered contract to the spirit of the Convention. Recently, the biggest market for wildlife products from Tanzania has been Asian countries where such species and their products have lucrative prices.⁵⁴ While actual data on the value or the number of endangered species traded

⁴⁶ Ibid.

⁴⁷ Wandesforde-Smith, G. (2016). Looking for law in all the wrong places? Dying elephants, evolving treaties, and empty threats. *Journal of International Wildlife Law & Policy*, 19(4), 365-381 p.372.

⁴⁸ Martin, R.B. (2000). When CITES Works and When it does Not? In Hutton, J. & Dickson, B. (Eds). *Endangered species, threatened convention: the past, present and future of CITES*. Earthscan. pp. 29-32.

⁴⁹ Scanlon, J. E. (2013). CITES at its best: cop 16 as a 'watershed moment' for the world's wildlife. *Review of European, Comparative & International Environmental Law*, 22(3), 222-227.

⁵⁰ The Official Website for the United Republic of Tanzania. (June 28, 2020). <https://www.tanzania.go.tz/home/pages/72> . Tanganyika became a sovereign state on 9th December 1961 and became a Republic one year later. Zanzibar became independent on 10th December 1963 and the People's Republic of Zanzibar was established following the revolution of 12th

January 1964. On 26th April 1964 the two sovereign Republics united to form the United Republic of Tanzania.

⁵¹ Other Countries are Kenya, Uganda, Tanzania, Rwanda, Burundi, Southern Sudan and the Democratic Republic of Congo.

⁵² The Ministry of Natural Resources and Tourism of United Republic of Tanzania. <http://www.mnrt.go.tz/about/welcome-to-mnrt>.

⁵³ The United Republic of Tanzania. (2012). *Safari hunting in Tanzania*. Ministry of Natural Resource and Tourism (Wildlife Division). pp.2-3.

⁵⁴ Sina, F. E. C. (2023). *Convention on international trade in endangered species of wild fauna and flora and its implementation in the United States of America, the European Union, Tanzania, India and Colombia: a study on the implementation of obligations under a multilateral environmental agreement*. [Doctoral Thesis, Maastricht University]. <https://doi.org/10.26481/dis.20230612fs>

may not be publicly available nor credible, the existing information draws a picture of the problem in this country. The information which is mainly based on media reports reveals the seriousness of the illegal trade in endangered species/products.⁵⁵

The gravity of the problem has been recognised by the nation's leaders in more than one occasion. For example, the late president Dr. Magufuli issued a stern warning to corrupt officials and other persons involved in poaching and illegal dealings of wildlife during the parliament's inaugural speech on November 20, 2016.⁵⁶ He challenged the law enforcement officers to look into why tusks purportedly originating from Tanzania are impounded in China or Europe while they are passed at Dar-es-Salaam port.⁵⁷ The president instructed the Ministry's Permanent Secretary responsible for wildlife and natural resources management to fight poachers and curb illegal trade in endangered species. He was concerned that these acts are a threat to the survival of Tanzanian wildlife resources and they seriously deny the government of substantial source of legal revenues.⁵⁸

Current Legal Framework

The first regulation regulating matters of wildlife in the now territory of Tanzania (German East Africa) was promulgated by the then colonial power (The Germans) in the year 1891.⁵⁹ Following Germany's defeat in WWI, the German East Africa was re-named Tanganyika and placed under the League of Nations under the British as its Protectorate. This

land was governed by the British from 1917 to 1961.⁶⁰ The British enacted game ordinances in 1921 and 1951 and *re-gazetted* game reserves established by the Germans, including areas in which no hunting was allowed such as Serengeti, Ngorongoro Crater, Mount Meru Selous and Mount Kilimanjaro.⁶¹

The Game Ordinance of 1940 was enacted partly as a result of this northern pressure of establishing national parks as a legal entity for the first time in Tanganyika. This was followed by the enactment of the 1951 Fauna Conservation Ordinance.⁶² The 1951 legislation continued to be in force for a decade even after Tanganyika's independence in 1961. Under this legislation, several parks were made, and the existing ones continued to be expanded.⁶³

The country enacted its post-colonial legislation to govern wildlife, i.e. the Wildlife Conservation Act of 1974.⁶⁴ The above legislation governed the wildlife affairs for decades and was amended several times to reiterate and reflect, in all aspects, an intention on the part of the government to regulate the international trade in species found in its territory following the underlying objectives of the CITES.⁶⁵ The country was active in initiatives involving international wildlife conservation as soon as it attained independence. It ratified CITES on the 29th of November 1979 and formally became Party on 27th of February 1980.⁶⁶ In the year 2005, the country developed specific subsidiary

⁵⁵ Ibid.

⁵⁶ O'Kasick, J.D. (2015, December 10). Will 2016 be a breakthrough in the fight to save Elephants? *National Geographic*.

<http://news.nationalgeographic.com/2015/12/151211-elephants-poaching-conservation-tanzania-kenya-president-magufuli/>

⁵⁷ Daily News Reporter, (2015, December 31). New Permanent Secretaries' line-up out. *Dailynews*. <http://www.dailynews.co.tz/index.php/home-news/45591-new-p-secretaries-line-up-out>

⁵⁸ Ibid.

⁵⁹ Majamba, H.I. (2001). Regulating the hunting industry in Tanzania: Reflections on the legislative, institutional and policy-making frameworks. (Research Report No. 4). Lawyers' Environmental Action Team (LEAT). Dar es Salaam. Tanzania.

⁶⁰ See Tanzania History: 20th Century; The Maji Maji Rebellion. <https://www.tanzaniaodyssey.com/blog/cadogan-guide-to-tanzania-history-of-tanzania-20th-century/>

⁶¹ Ibid.

⁶² Nelson, F., Nshala, R., & Rodgers, W. A. (2007). The evolution and reform of Tanzanian wildlife management. *Conservation and Society*, 5(2), 232-261.p.237.

⁶³ Ibid.

⁶⁴ Ibid.

⁶⁵ Majamba, H.I. (2001). Regulating the hunting industry in Tanzania: Reflections on the legislative, institutional and policy-making frameworks. (Research Report No. 4). Lawyers' Environmental Action Team (LEAT). Dar es Salaam. Tanzania.

⁶⁶ <https://cites.org/eng/disc/parties/chronolo.php>

legislation to enforce the Convention, i.e., the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) (Implementation) Regulations, 2005 (herein CITES (Implementation) Regulations, 2005). The current Wildlife Conservation Act, Cap. 238 (Wildlife Conservation Act or WCA) was enacted in the year 2009. The main objective of this Act was to make better provisions for the conservation, management, protection and sustainable utilization of wildlife and wildlife products etc.

In addition to the above statutes, other laws governing the conservation of wildlife in Tanzania include the National Parks Act [Cap. 282], the Ngorongoro Conservation Area Act [Cap. 284], the Economic and Organized Crimes Control Act, [Cap. 200], the Penal Code [Cap. 16], the Arms and Ammunitions Act [Cap. 223], the Environmental Management Act No.20 of 2004, the Forest Act, [Cap. 191] and the Marine Parks and Reserves Act [Cap. 146].

These laws encompass two kinds of control or deterrence measures required by CITES to be included in the domestic legislation. These are measures that penalise any trade in specimens in violation of the Convention or the possession of specimens so traded or both and measures that provide for confiscation of specimens and/or return them to the state of export.

In the year 2016, all the above crimes under the Wildlife Conservation Act, 2009 were declared to be economic crimes as per the Economic and Organized Crime Control Act [Cap. 200].⁶⁷ Consequently, all such offences unbailable should the Director of Public Prosecutions certify that it is likely that the safety or interest of the Republic would be prejudiced⁶⁸. Further all instrumentalities and proceeds derived from the offence committed are likely to be confiscated and forfeited to the government of in addition to the penalty imposed on persons found guilty of the offence.⁶⁹ This was as done as to deter involvement in wildlife crimes including ones involving endangered species listed under CITES appendices.

Under the Wildlife Conservation Act, the Director of Wildlife under the Ministry responsible for Tourism and Natural Resources is a designated CITES Management Authority.⁷⁰ He is also the principal advisor to the government in all matters related to the conservation and management of wildlife and wildlife products.⁷¹ The Director of Wildlife is responsible for the issuance of CITES permits (certificates) for export from or import into, or transport through or re-export any wildlife species, specimens, or products in the country.⁷² The Tanzania Wildlife Research Institute (TAWIRI)⁷³ is designated as Scientific Authority to comply with CITES.⁷⁴ TAWIRI is charged with the

⁶⁷ Section 16 of the Written Laws (Miscellaneous Amendment) Act, 2016.

⁶⁸ According to the case of *Emmanuel Simforian Massawe vs Republic* (Crim Appeal No.252 of 2016) [2018] Tanzania Court of Appeal 3; (21 February 2018) the DPP is not required to provide any reason for decision).

⁶⁹ Section 13 of the Written Laws (Miscellaneous Amendment) Act, 2016 (amending section 60 of the Economic and Organized Crime Control Act, (Cap 200 of laws of Tanzania).

⁷⁰ Section 95(4). Tanzania Wildlife Management Authority (TAWA) under the Ministry of Natural Resources and Tourism is an autonomous public institution that was established by the Wildlife Conservation (The Tanzania Wildlife Management Authority) Establishment Order, 2014. It is responsible for undertaking the administration and sustainable management of wildlife resource and biodiversity conservation outside

National Parks and Ngorongoro Conservation Area. This entails managing a total area of 169,553 Square km (79% of the total size of protected areas in the country) comprising of Game Reserves, Game Controlled Areas and open areas.

⁷¹ WCA, Section 7, 95(4). The Director shall be a civil servant with proven academic and professional knowledge in wildlife sciences. This Director is an officer in the public service appointed in accordance with the Public Service Act which is the principal legislation governing all public service affairs in Tanzania.

⁷² WCA, Section 95(2).

⁷³ See Tanzania Wildlife Management Authority. <http://www.tawiri.or.tz/>

⁷⁴ CITES. Country profiles. United Republic of Tanzania. <https://cites.org/eng/parties/country-profiles/tz>

responsibility to conduct and coordinate wildlife research in the Country.⁷⁵

The Wildlife Conservation Act requires any person trading, i.e., exporting, importing, and transporting through and re-exporting wildlife species listed in the relevant CITES appendices to comply with the terms and conditions of permits issued by the Director of Wildlife in accordance with CITES provisions.⁷⁶ Non-compliance with this requirement leads to confiscation of the specimen traded.⁷⁷

The permits/certificates application must be made in prescribed form and upon payment of the prescribed fee.⁷⁸ Prior to issuance of the said permits and certificates, the Director of Wildlife must be satisfied that the following pre-requisites have been met: that the specimens to be traded have/ was lawfully acquired; issuance of the permit will not be detrimental to the survival of the wild population of the species as opposed to the individual specimen; All provisions with respect to CITES and any international or regional agreement or instrument relating to the export and import of wildlife species and specimens or products and the sale of manufactured trophies to which the country is a party has been complied with.⁷⁹ These conditions are also emphasized under CITES (Implementation) Regulations, 2005.

The Director of Wildlife is obliged to handle all matters relating to the implementation of CITES including compliance with the keeping of records of trade.⁸⁰ Regulation 28 CITES (Implementation) Regulations, 2005 requires the Director in

consultation with the Scientific Authority to ensure that records of trade in specimens of species listed in CITES appendices are well kept and accessible.

Records of traded species must contain details such as names and addresses of exporters and importers, the number and type of permits and certificates granted as well as particulars of the states with which such trade occurred. It also contains details on the numbers or quantities and types of the specimen and the specimen's name and where applicable, the size and sex of the specimens.⁸¹

Regulation 29 requires the Director in consultation with Scientific and other designated Management Authorities to prepare and submit periodic reports to the CITES Secretariat on implementation of CITES by Tanzania. The report includes annual report on matters regarding the trade in species listed in CITES appendixes as well as the biannual report on legislative, regulatory, and administrative measures taken to enforce the provision of CITES. For enhanced accountability, such reports are to be published in the Government Gazette.⁸²

Despite existence of these comprehensive provisions, the country has not been compliant with this. Although several reports have been submitted to the CITES Secretariat, nevertheless annual reports and biannual submissions have not been timely published. Furthermore, contrary to the requirement of the regulations, the reports have not been published in the Government Gazette and therefore such information is not accessible to the public.⁸³

⁷⁵ This organization was established by Act of Parliament of the United Republic of Tanzania No. 4 of 1980, under the name "Serengeti Wildlife Research Institute" (SWRI), with the overall responsibility of carrying out, coordinating and supervising all wildlife research in the country. In the year 1999 through Act No. 10 the original name of the Institute was changed from SWRI to and the organization was given the mandate on wildlife research throughout the country. See its history at http://www.tawiri.or.tz/index.php?option=com_content&view=article&id=13&Itemid=18

⁷⁶ WCA, Section 95(2).

⁷⁷ WCA, Section 95(1).

⁷⁸ WCA, Section 95(3).

⁷⁹ Ibid.

⁸⁰ Section 95(4).

⁸¹ Regulation 28.

⁸² Regulation 30. The Government Notice is an official government instrument that communicates to the public various issues including administrative arrangements to the public.

⁸³ Sina, F. E. C. (2023). *Convention on international trade in endangered species of wild fauna and flora and its implementation in the United States of America, the European Union, Tanzania, India and Colombia: a study on the implementation of obligations under a multilateral environmental agreement*. [Doctoral Thesis, Maastricht University]. <https://doi.org/10.26481/dis.20230612fs>

The Zanzibar Legal Framework: A Snapshot

Tanzania is a unitary state formed following the union of Tanganyika and Zanzibar.⁸⁴ In light of the uniqueness of union governance framework, forestry and natural resources matters are administered by each state.⁸⁵ Consequently, the Wildlife Conservation Act and CITES implementation regulations are not applicable in Zanzibar.⁸⁶ The Zanzibar's Forest Resources Management and Conservation Act, 1996 is the principal law governing wildlife conservation in the jurisdiction.⁸⁷

Non-compliance with wildlife laws in Zanzibar (including CITES provisions with its provision) punishable with a maximum of six months' imprisonment or a fine of Tanzanian shillings equivalent to \$185.⁸⁸ Additionally, the law does not contain provisions regulating international trade in endangered species. CITES-listed species such as elephants are not expressly covered and protected in the Zanzibar law, which applies to native species only.⁸⁹ Likewise, Forest Resources Management and Conservation Act, 1996 does not authorize the Minister to pronounce regulations to enforce CITES in Zanzibar. The law enforcement actions are generally weaker compared to Tanzania mainland.⁹⁰

As a result of this legislative and enforcement actions, Zanzibar ports, located in the Indian Ocean, have been used as transit and destination points for

illegally acquired endangered species and their products from Tanzania Mainland, particularly ivory. These ports are used as transit to jurisdictions such as Kenya, Malaysia, United Arab Emirates, Qatar, Sri Lanka, Singapore, Philippines, Taiwan Province of China People's Republic of China, Hong Kong Special Administrative Region and Vietnam.⁹¹ This reality apart from negatively impacting enforcement action by Tanzania mainland it has persistently affected the ranking of Country by CITES - National Legislative Project because Tanzania as a sovereign state is identified as one of the countries that do not to meet all the requirement of CITES to be placed in category I.

Law enforcement: Practical Realities

From the description above it is evident that that Tanzania Mainland has a reasonably comprehensive legal framework that seeks to implement the requirements of CITES. Nevertheless, enforcement of the wildlife laws including CITES regulations is hampered by several issues as here under discussed:

Limited Resources

Limitation in terms of human and financial resources is noted across all agencies responsible for the general enforcement of wildlife legislation and criminal justice in the country. Tanzania Wildlife Management Authority (TAWA) a semi-autonomous body responsible for primary enforcement of wildlife legislation is noted to have

⁸⁴ Kimambo, I. N., & Maddox, G. H. (2019). *A new history of Tanzania*. Mkuki na Nyota Publishers; The United Republic of Tanzania, Government of Tanzania. <https://www.tanzania.go.tz/>

⁸⁵ Articles 4 and the First schedule of the Constitution of united Republic Tanzania, 1977 <https://www.parliament.go.tz/uploads/s/documents/publications/en/1475140028-The%20Constitution.pdf>

⁸⁶ Section 2 of the Wildlife Conservation Act, Chapter 283, Revised Edition 2022; http://154.118.226.98/bitstream/handle/123456789/313/CHAPTER%20283%20The%20Wildlife%20Conservation%20Act%20R_E%202022.pdf?sequence=1&isAllowed=y

⁸⁷ Forest Resources Management and Conservation Act 1996 (Zanzibar) https://sherloc.unodc.org/cld/uploads/res/document/forest-resources-management-and-conservation-act-1996-zanzibar_html/Zanzibar_Forest_Management_1996.pdf

⁸⁸ See for example sections 88-93 of the Act.

⁸⁹ Millar, A (April 16, 2020). Time's up: Wildlife trafficking through Tanzania's ports. <https://www.ship-technology.com/features/wildlife-trafficking-in-tanzania/>

⁹⁰ Environmental Investigation Agency (2018). Taking Stock: An assessment of progress under the National Ivory Action Plan process. <https://eia-international.org/wp-content/uploads/EIA-report-NIAP-2018.pdf>; URT (2018). CITES, National Ivory Action Plan Progress Report.

⁹¹ Moneron, S., Okes, N., & Rademeyer, J. (2017). Pendants, powder and pathways. *Pretoria, South Africa: TRAFFIC, East/Southern Africa*. ; Alden, C., & Harvey, R. (2021). Chinese transnational criminal organisations and the illegal wildlife trade in Tanzania. *Euro. Rev. Organ. Crime*, 5, 10-35. Little, L. (2019). Countering wildlife trafficking through Tanzania's sea ports. *TRAFFIC International*, Cambridge, United Kingdom

insufficient number of officers compared to the vast area that the Authority is required to oversee. The Authority has significant shortage of human resources of up to 800 personnel.⁹² Despite the recent initiatives, the desired proportions have not been attained.⁹³ It is worth to note that there has been a remarkable improvement in recent government commitment and actions in the control of illegal trade in endangered species in the country the objectives could not be achieved due to lack of human resources.

Financially, there has been an improvement in terms of resources allocated to TAWA. The Authority is now allowed to retain most of the collections from the services offered. In early years of its establishment, the Authority's budget was so unrealistic leading to additional disbursement by the government to enable it perform its tasks effectively. Nevertheless, in recent years, the government's disbursement has been falling short compared to the budgeted amounts.⁹⁴ These limitations have hindered the Authority's ability to effectively undertake its statutory roles of preventing illegal hunting and ultimately trade in endangered species. For example, the Authority

cannot buy enough gears and vehicles that would have enabled its employees to patrol and survey all the lands where endangered species are found, in particular during rainy seasons where access roads are severely damaged. Consequently, poachers become active in such seasons.⁹⁵

Another critical body in enforcement of wildlife laws in the country is the Tanzanian Police Force (TPF). It is responsible for the general detection and investigation of the illegal trade in wildlife or their products while being traded or transported in Tanzania.⁹⁶ The Inspector-General of Police Tanzania was recorded to once note "the ability of the police force to effectively respond to a wide range of criminal cases has been constrained by factors beyond the control of the force itself."⁹⁷ TPF's effectiveness is hampered by several factors including the non-compatibility of its size to the increase of population, availability of equipment and financial resources.⁹⁸

The ratio of police to citizens is far below the international standards while the country has around 62,092,761 people,⁹⁹ there are around of 42,924 Police personnel in the Country.¹⁰⁰ Therefore one

⁹² An official letter dated 8th January 2019(in researchers file).

⁹³ Keraryo, H.W. (2015). An Overview of the wildlife sub-sector: Achievements, challenges and priorities for financial year 2014/15. (A Paper Presented at the 2014 Natural Resources Sector Review Meeting on 16th October, 2014). The National College of Tourism, Bustani Compus-Dar Es Salaam. www.tzdpq.or.tz/.../02_FINAL_Natural_Resources_Sector_Review_-_Wildlife_Paper.

⁹⁴ Sina, F. E. C. (2023). *Convention on international trade in endangered species of wild fauna and flora and its implementation in the United States of America, the European Union, Tanzania, India and Colombia: a study on the implementation of obligations under a multilateral environmental agreement*. [Doctoral Thesis, Maastricht University]. <https://doi.org/10.26481/dis.20230612fs>

⁹⁵ The United Republic of Tanzania. (2022). National Audit Office of Tanzania, A performance Audit Report on the Maintenance of Wildlife in Game Reserves and Game Controlled Areas, 2013.pp 8- 16.

⁹⁶ The responsibilities of the Tanzania Police Force are given under Section 5 of the 2002 Act (amendment - Military Police Service Provider) Cap. 322. These responsibilities include peacekeeping, protecting civilians and their property, detecting crime before being committed, arresting criminals and bringing them to court, and overseeing the implementation of laws and

regulations of the country. Besides the law, practice in the police force is governed by regulations (Police General Order) hand in hand with the basic values of the police force. The Police Force also abides by international agreements on security and human rights.

⁹⁷ The Tanzania police Forces. (2014). Crime Statistics Report January December. p. 35; The Tanzania police Forces (2016). Crime and Traffic Incidents Statistics, January - December, (issued January 2017). Police Officer /population ratio is the number of people served by one police officer

⁹⁸ Ibid.

⁹⁹ CIA (2021, July 27). The world-fact book: Tanzania. <https://www.cia.gov/the-world-factbook/countries/tanzania/>

¹⁰⁰ Imori, J. M., & Pallangyo, W. A. (2017). Assessment of Crime and Crime Level in Kinondoni Police Regional Stations, Dar Es Salaam Tanzania. *International Journal of Political Science*, 3(2), 56-64; Crime and policing issues in Dar es Salaam Tanzania focusing on: Community neighbourhood watch groups - "sungusungu" presented at the 1st sub Saharan executive policing conference International Association of Chiefs of Police (IACP) Durban, South Africa: 27 – 30 August, 2000. https://mirror.unhabitat.org/downloads/docs/1632_1928_6_Sungusungu.pdf

officer is required to serve an average of 1,446 Tanzanians. This is far below the international standards, for one officer to serve a maximum of 450 persons.¹⁰¹ To address the challenge TPF may have to recruit at least thrice the present numbers.¹⁰²

On the other hand there is a serious limitation of awareness among members of the TPF on wildlife laws in particular CITES related regulations¹⁰³ Furthermore, the TPF is charged with the responsibilities of assuring of peace and order in the country which is matter of priority compared to wildlife crimes.¹⁰⁴ The general crime statistics in Tanzania indicate that wildlife crimes are not the major subjects of investigation by the police.¹⁰⁵ Where there are investigations, the focus is usually on being found in possession of government trophies.¹⁰⁶

Shortcomings in the Investigation and Prosecution of Wildlife Cases

The statutory power to prosecute wildlife cases is vested to the Director of Public Prosecution (DPP) who is also the head of the National Prosecution Service (NPS). This Office is an independent department of the government which is vested with power to prosecute and coordinate of all criminal investigations in the country.¹⁰⁷ Its head office is in

country's capital city Dodoma and branches in every region.¹⁰⁸ Like other law enforcement agencies, it has a limited number of Attorneys with a substantial number being concentrated in the business city of Dar es Salaam and regional offices having approximately eight to twenty Attorneys.¹⁰⁹

NPS has a dedicated unit that charged with prosecution of wildlife cases in the country at its Head Office with around 30 Attorneys.¹¹⁰ Despite the fact that other Attorneys, Prosecutors in the TPF, and selected officers of the Wildlife Department are authorized to prosecute the wildlife offences and cases related to illegal trade thereto, high-level cases are in practice prosecuted by Attorneys from the Head Office's Wildlife Unit crimes.¹¹¹ Despite its purported advantage of promoting competency and sharing technical expertise among prosecutors, the arrangement is noted to be uneconomical and has in several occasions resulted into delayed conclusion of cases and acquittal of suspects.

The weakness in the investigations and prosecutions services was substantiated by joint study conducted by the International Union for Conservation of Nature and the University of Dar es Salaam Tanzania (Law school).¹¹² out of the randomly selected 39 wildlife cases that were appealed to the High Court or Court of appeal, 30 (77%) were overturned, 6 (15%) of the decisions were upheld

¹⁰¹ See the report at https://www.nbs.go.tz/nbs/takwimu/trade/CrimeStats_Jan-Des2016English.pdf Comparatively Kenya has one for every 1,150 and Ghana one for every 1,200.

¹⁰² Ibid. see also Crime and policing issues in Dar es Salaam Tanzania focusing on: Community neighbourhood watch groups - "sungusungu" presented at the 1st sub Saharan executive policing conference International Association of Chiefs of Police (IACP) Durban, South Africa: 27 – 30 August, 2000. https://mirror.unhabitat.org/downloads/docs/1632_19286_Sungusungu.pdf

¹⁰³ Sina, F. E. C. (2023). Convention on international trade in endangered species of wild fauna and flora and its implementation in the United States of America, the European Union, Tanzania, India and Colombia: a study on the implementation of obligations under a multilateral environmental agreement. [Doctoral Thesis, Maastricht University]. <https://doi.org/10.26481/dis.20230612fs>

¹⁰⁴ Ibid.

¹⁰⁵ The United Republic of Tanzania. 2017, January). Crime Statistics Report January. Tanzania police Force.

https://www.nbs.go.tz/nbs/takwimu/trade/CrimeStats_Jan-Des2016English.pdf; The United Republic of Tanzania. 2020, January). Crime Statistics Report January-December Tanzania police Force. https://www.nbs.go.tz/nbs/takwimu/Crime/Crime_Report_January_to_%20December_2020.pdf

¹⁰⁶ Ibid.

¹⁰⁷ See Part II of the National Prosecution Services Act, 2008.

¹⁰⁸ The Office has an office in all regions within the Tanzania Mainland.

¹⁰⁹ Interview with Attorney in Charge of the Wildlife Crimes Prosecution Unit held from 9:00 to 10:00 AM at the Office of Director of Public Prosecutions- Dar es Salaam

¹¹⁰ Ibid.

¹¹¹ Ibid.

¹¹² Escot, L., Majamba, H., & Slobodian, L. (2016). Wildlife cases in Tanzanian courts. IUCN. P. 26. http://www.wildlex.org/sites/default/files/inline-files/Wildlife%20Cases%20in%20Tanzanian%20Courts_0.pdf

and the remaining 8% of the decisions were declared inadmissible due to technical flaws such as irregularity in filing a notice of appeal. The study indicated that, out of the overturned decisions, 70% of the lower courts' decisions are quashed and the accused released; 27% of the decisions are quashed and files are sent back to trial courts for re-trial and 3% of the decisions are revised.¹¹³

The issues noted in the study were associated with several factors such as lack of jurisdiction by the trial court to entertain such cases and wrong preparation of DPPS certificates as well as failure by investigators to comply with criminal procedures as stipulated in the laws particularly of interrogation procedures.¹¹⁴ Failure to bring key witnesses and to prove the identification of the meat of the animal in question was also noted to contribute towards overturning trial court decisions by the appellate Court.¹¹⁵

Under the WCA, a person charged with an offence of being "found in possession of wildlife species or a product", is required to prove the said item was lawfully acquired to be discharged from criminal liability. In practice, it is the Prosecutor who is required to prove beyond reasonable doubt that the person found in possession of a wildlife species or its product, in fact, committed the offence, which has in many occasion being difficult given the nature of the deals.¹¹⁶

Limitations in terms of financial resources and lack of technical skills have been noted to affect the ability of officers to undertake investigations that would result in successful prosecutions. Similarly, investigations of such cases usually take a long time which consequently affects the quality of the evidence presented.¹¹⁷

The Courts Related Issues

The Judiciary of Tanzania plays a critical role in dispensation of justice in the Country.¹¹⁸ It is organised in four tiers: the Primary Courts, the District/Magistrate Courts, the High Court, and the Court of Appeal. The Judiciary faces several administrative challenges including shortage of human and financial resources at all levels.¹¹⁹

For example, as of 2023 the judiciary had 5,947 staff falling short of 4,404 (compared to 10,351 required for its optimal performance). For instance, in order for the High Court of Tanzania to operate effectively, it requires 120 judges.¹²⁰ As of September 08, 2022, it was noted that the High Court had 100 judges, falling short by 20 judges¹²¹. Further, each of the judges is expected to decide 220 cases per year, compared to the current workload of 265 cases that they currently handle.¹²² This is despite the recent initiatives to address the shortcoming by employing more magistrates and appointing more judges of Court of Appeal and

¹¹³ Ibid.

¹¹⁴ The law requires most of the wildlife cases to be tried by the High Court. However, the DDP may issue a certificate under Section 2, 12(3) of the Economic and Organized Crimes Control Act, (Cap 200 R.E. 2002).

¹¹⁵ Escot, L., Majamba, H., & Slobodian, L. (2016). Wildlife cases in Tanzanian courts. IUCN. pp. 27-30.

¹¹⁶ Section 100(1) of the Wildlife Conservation Act, 2009. The said section provides "In any proceedings for the offence of unlawful hunting, killing or capturing an animal contrary to the provisions of this Act, the proof of burden to prove that the animal was hunted, killed or captured pursuant to, and in accordance with the terms of a license issued, permit or authority given under this Act shall lie on the person charged".

¹¹⁷ The United Republic of Tanzania. (2022). National Audit Office of Tanzania, A performance Audit Report on the Maintenance of Wildlife in Game Reserves and Game Controlled Areas, 2013.pp 8- 16.

¹¹⁸ Established under Article 107A of the Constitution of the United Republic of Tanzania of 1977.

¹¹⁹ Legal and Human Rights Centre (2015), *Tanzania Human Rights Report 2015* (Tanzania Mainland), pp.48-50. <http://www.humanrights.or.tz/userfiles/file/TANZANIA%20HUMAN%20RIGHTS%202015.pdf>

¹²⁰ Speech by Hon. Prof. Mussa Juma (CJ) During Official swearing ceremony of the new Judges, November 4, 2019 at the State House.

¹²¹ Ibid.

¹²² See speech by Tanzanian Chief Justice at <https://www.youtube.com/watch?v=FbSQGu8tFJ8>; #LIVE:RAIS SAMIA AFANYA UAPISHO WA MAJAJI NA KAMISHNA JENERALI WA MAGEREZA. <https://www.youtube.com/watch?v=hRzCfwgQaCU> (speech by Prof. Juma the Chief Justice on swearing of Judges and Prisons Commissioners).

High Court.¹²³ Shortage of human resources has affected the capability of the courts to timely adjudicate various cases including wildlife cases whose evidence usually tends to perish with time.

Major wildlife laws violation cases are handled by the High Court and the Resident Magistrate's Courts (upon permission of the DPP),¹²⁴ the same magistrates and judges are on the same time required to preside over all other criminal and civil cases. Unfortunately, only a few magistrates have in-depth knowledge of wildlife laws. To most of magistrates a vigorous research is required before they can determine a wildlife law violation case, particularly the ones related to CITES.¹²⁵

Some commenters have argued that sanctions (fines or jail times) pronounced by courts are not stringent enough to deter the commission of wildlife crimes. The law normally provides the maximum punishment for grave offences; however, sentencing is usually at the discretion of the presiding magistrate as guided by the Magistrate Courts Act. In such situations, persons found guilty of the same offence in two different magistrates might end up with two different sentences.¹²⁶

Enhancing CITES Implementation in Tanzania: Some Strategies

¹²³ See Hotuba Ya Jaji Mkuu Mhe. Prof. Ibrahim Hamis Juma Kwenye Kilele Cha Wiki Ya Elimu Na Siku Ya Sheria Jijini Dar Es Salaam, Tarehe 06 Februari, 2020. <https://tanzlii.org/blog/hotuba-ya-jaji-mkuu-mhe-prof-ibrahim-hamis-juma-kwenye-kilele-cha-wiki-ya-elimu-na-siku-ya> (speech by Prof. Juma the Chief Justice during the eve of law day at Dar es Salaam on February 6, 2020)

¹²⁴ This is pursuant to requirements of section 2, 12(3) of the Economic and Organized Crimes Control Act, [Cap. 200 R.E. 2002].

¹²⁵ Hon. Prof. Mussa Juma (CJ) during the Official swearing ceremony of the new Judges, November 4, 2019 at the State House, pp.8-16.

¹²⁶ National Audit Office of Tanzania. (2013). A performance audit report on the maintenance of wildlife in game reserves and game controlled areas, 2013. pp.30- 34. However, there has recently been a tremendous progress in sanctions for wildlife offences which are now considered economic cases.

¹²⁷ IIED Briefing, beyond enforcement: engaging communities in tackling wildlife crime, April 2015. <http://pubs.iied.org/17293IIED>. The briefing has pointed out

Improving Law Enforcement Approaches

Effective enforcement is an important aspect for successful prevention and control of illegal wildlife trade particularly CITES-listed species. In most jurisdictions, the enforcement strategies, have outstandingly focused on use of police and military actions to prevent illegal activities.¹²⁷ Nevertheless, their effectiveness has been limited over time.¹²⁸

In order for enforcement to achieve the desired goals, it requires careful designing and involvement of all potential stakeholders. These are such as local communities, designated policing agencies, prosecution authorities and adjudication bodies. Involving local communities in the enforcement of wildlife legislation may include making the local communities whistle-blowers and involving them in the actual field operations aimed at protecting endangered species where possible. This would however require good relation between the agencies and local communities.¹²⁹

The Famous Ruvuma Elephant Project in Tanzania is one of the celebrated examples in demonstrating how best to improve local communities in enforcement actions. This project operates in an area where elephant poaching was a major challenge. Through this project, the Government

that the "continued depletion of high-value species such as elephants and rhinos, despite great increases in enforcement, affirm the limitations of such approaches". "Even when enforcement is successful at the level of a specific site, it may have the effect of displacing the poaching threat to other areas where enforcement is weaker and local communities are poor or disenfranchised enough to have an incentive to engage in wildlife crime. As many populations of high-value species coincide with areas of high poverty, and heavy enforcement cannot be always applied everywhere, the illegal wildlife trade will likely continue to move along the path of least resistance".

¹²⁸ The contemporary enforcement-dominated approaches have not only proven ineffective for conservation, but they have been accompanied by worrying social consequences. In some developing countries, enforcers have reportedly perpetrated human rights abuses such as destruction of property, killing, rape, and torture. Poorly targeted enforcement activities have resulted in lowering the local community's confidence in the conservation authorities.

¹²⁹ IIED Briefing, beyond enforcement: engaging communities in tackling wildlife crime, April 2015. <http://pubs.iied.org/17293IIED>.

Rangers work together with locally recruited and trained game scouts who receive performance-related rewards. Other members of the local community complement law enforcement efforts by reporting poaching and other suspicious activities to rangers. This initiative has highly contributed towards reduction of poaching activities together with improved protection of crops from being destructed by elephants.¹³⁰

In Mali, the country similarly has implemented the Mali Elephant Project. In this project, local people are engaged as guards and informants and are paid food. As a result there has been a growing sense of pride, ownership of wildlife and improved natural resources preservation and co-existence of livestock with the elephants.¹³¹

Enhancing the capacity of wildlife crime investigative organs is critical. These bodies need to be vested with sufficient financial and human resources. Adequate financial resources are critical for facilitating procurement of required equipment and tools for better performance. Officers of these bodies require continuous training in various areas related to their assignments and must be imparted with skills and knowledge in emerging trends related to their assignments. This should go hand in hand with the improvement of the working environment as well as rewarding outstanding performers. This need to go hand in hand with improving remunerations to such officers to enable them to meet their standard family needs reduce incentive for involvement in corrupt practises.

Wildlife cases investigating bodies need to employ and utilize technological solutions including forensics and genetics laboratories to detect the origin of species. This would require government

commitment to avail sufficient financial resources to procure the required tools and technology as well as training of the operators. The use of technological solutions is likely to lead to successful investigation of cases involving population genetics and molecular diagnostics and consequently successful prosecutions of wildlife cases particularly involving poachers and smugglers.¹³²

Improving the capacities of Prosecuting Authorities and Adjudication Bodies is of paramount. Prosecuting Attorneys/Officers should be trained about country's wildlife laws and its enforcement including international frameworks. Officers need to be bestowed with skills for conducting legal research, legal writing, and making appealing legal arguments in criminal prosecutions. Magistrates and judges need to be imparted with knowledge and skills on how to handle wildlife cases. This would require to make them conversant with relevant laws and related precedents as well as the writing of proper judgments that encompass all necessary ingredients of law procedurally and substantively.¹³³

Carrot and sticks approaches may be deployed to contain or reduce incidences of corruption within the wildlife sector. The "Carrots" would include improving the remuneration of people involved in wildlife preservation and law enforcement authorities (salaries and allowances and working environment). The "Sticks" would include strict sanctions to people involved in corrupt practices could help deter their involvement in such acts.¹³⁴

¹³⁰ See Beyond Enforcement Symposium Report. <http://pubs.iied.org/G03903.html>.

¹³¹ Ibid.

¹³² DLA Piper (2014). Empty Threat: Does the law combat illegal wildlife trade? A review of legislative and judicial approaches in fifteen jurisdictions. DLA Piper, London.

¹³³ Sina, F. E. C. (2023). *Convention on international trade in endangered species of wild fauna and flora and its*

implementation in the United States of America, the European Union, Tanzania, India and Colombia: a study on the implementation of obligations under a multilateral environmental agreement. [Doctoral Thesis, Maastricht University]. <https://doi.org/10.26481/dis.20230612fs>

¹³⁴ Ibid.

Strengthening Community-based Conservation Approaches

Community-based conservation also known as “community buy-in approaches”¹³⁵, “includes natural resources or biodiversity protection by, for, and with the local community.”¹³⁶ It includes a range of activities practiced in various parts of the world, focused on central idea of “the coexistence of people and nature, as distinct from protectionism and the segregation of people and nature.”¹³⁷ Community-based wildlife management approaches have been noted to have registered success in the conservation of CITES-listed species,¹³⁸ including socio-economic benefits to rural communities.¹³⁹

These approaches are argued to represent a more holistic community-based natural resource management with notable success.¹⁴⁰ Community-based approaches for conservation for example through sustainable use or payments for local communities involved in the protection of

endangered species have the potential to stimulate a positive attitude towards the conservation of endangered species.¹⁴¹ For these approaches to be sustainable they would certainly require actions beyond payment systems which in most cases have been the incentive.¹⁴²

Enhanced funding

Successful implementation of any international agreement requires sufficient funds for both the secretariat (for on-the-ground execution of the mandate) and implementing agencies among parties.¹⁴³ Funding has always been one of the key issues affecting the effective implementation of CITES across implementing parties. In Tanzania shortage of fund cuts across agencies responsible for CITES implementation.¹⁴⁴ Consequently, this has impaired their ability to hire the required numbers of competent personnel and acquire adequate equipment including forensic and high-tech devices which are now required for effectively curbing the illegal trade in endangered species.¹⁴⁵

¹³⁵ Challender, D. W., Harrop, S. R., & MacMillan, D. C. (2015). Towards informed and multi-faceted wildlife trade interventions. *Global Ecology and Conservation*, 3, 129-148.

¹³⁶ Berkes, F. (2007). Community-based conservation in a globalized world. *Proceedings of the National academy of sciences*, 104(39), 15188-15193.

¹³⁷ Western, D., Wright, R. M., Strum, S., & Cussins, C. M. (1995). Natural connections: perspectives in community-based conservation. *Science Technology and Human Values*, 20(4), 512-515.

¹³⁸ Martin, R.B. (2000). When CITES Works and When it does Not? In Hutton, J. & Dickson, B. (Eds). *Endangered species, threatened convention: The past, present and future of CITES*. pp.29-32

¹³⁹ O’Criadain, C. (2011). CITES and Community-based Conservation: Where we go from here. In Abensperg-Traun, M., Roe, D., O’Criadain, C. (Eds.). *CITES and CBNRM. Proceedings of an International Symposium on the Relevance of CBNRM to the Conservation and Sustainable Use of CITES-Listed Species in Exporting Countries*. Vienna, Austria, 18–20 May 2011. IUCN, IIED, Gland, Switzerland, London, UK; Frisina, M.R., Tareen, S.N.A. (2009). Exploitation prevents extinction: Case study of endangered himalayan sheep and goats. In Dickson, B., Hutton, J., Adams, W.M. (Eds.). *Recreational Hunting, Conservation and Rural Livelihoods*. Blackwell Publishing Ltd. pp. 141–156.

¹⁴⁰ Challender, D. W., Harrop, S. R., & MacMillan, D. C. (2015). Towards informed and multi-faceted wildlife trade interventions. *Global Ecology and Conservation*, 3, 129-148.

¹⁴¹ Clements, T., Rainey, H., An, D., Rours, V., Tan, S., Thong, S., Sutherland, W.J., Milner-Gulland, E.J., (2013). An evaluation of the effectiveness of a direct payment for biodiversity conservation: The bird nest protection program in the northern plains of Cambodia. *Biological Conservation*, 157, 50–59; Kideghesho, J. R., Roskaft, E., and Kaltenborn, B. P. (2007). Factors influencing conservation attitudes of local people in western Serengeti, Tanzania. *Biodiversity and Conservation* 16(7):2213-2230; Kideghesho, J.R. & Mtoni, P.E. (2008). The potentials for co-management approaches in western Serengeti, Tanzania. *Tropical Conservation Science*, 1(4):334-358.

¹⁴² Harihar, A., Ghosh-Harihar, M., & MacMillan, D. C. (2014). Human resettlement and tiger conservation–socio-economic assessment of pastoralists reveals a rare conservation opportunity in a human-dominated landscape. *Biological Conservation*, 169, 167-175.

¹⁴³ Phelps, J., Webb, E. L., Bickford, D., Nijman, V., & Sodhi, N. S. (2010). Boosting cites. *Science*, 330(6012), 1752-1753, pp.1753-54.

¹⁴⁴ Sina, F. E. C. (2023). *Convention on international trade in endangered species of wild fauna and flora and its implementation in the United States of America, the European Union, Tanzania, India and Colombia: a study on the implementation of obligations under a multilateral environmental agreement*. [Doctoral Thesis, Maastricht University]. <https://doi.org/10.26481/dis.20230612fs>

¹⁴⁵ Abotsi, K. E., Galizzi, P., & Herklotz, A. (2016). Wildlife crime and degradation in Africa: An analysis of the current

Internationally, experts have argued for increased parties contributions to the CITES Trust Fund particularly by importing countries consistent with the international environmental law principle of “polluter pays”.¹⁴⁶ In order to enable countries like Tanzania to evolve towards proactive, real-time monitoring and strengthened enforcement action, credible and reliable data-sharing practices, enhanced financial allocations is inevitable.¹⁴⁷ The country could acquire additional financial resources required for effective enforcement actions through trade levied on CITES-listed species (appendix II or III)¹⁴⁸, increased penalties for violations of wildlife laws,¹⁴⁹ as well as wildlife certification schemes.¹⁵⁰

CONCLUSIONS

The United Republic of Tanzania is one the countries bestowed with abundant natural resources. It is home to rare species of fauna and flora and the present network of wildlife Protected Areas is one of the largest. It has with the widest variety of wildlife compared to others in Africa. It has over 1000 species of birds and the largest population of elephants in the world. The country has been at the forefront in actions aimed at conserving wildlife. It became a Party on the 27th of February 1980. Following the ratification on CITES on the 29th of November 1979. The Wildlife Conservation Act of being the first post-colonial instrument was enacted in the year 1974 and the current WCA has been in force since the year 2009. The CITES (Implementation). 2005 are specific subsidiary legislation that seek to enforce the requirements of CITES.

The Country has to a larger extent complied with CITES Obligation in terms of designating Management and Scientific Authorities; Permitting trade in CITES-listed specimens consistently with the procedure set out in the Convention; Taking appropriate domestic measures to enforce the provisions of the Convention and prohibition of trade in violation thereof. Nevertheless, there are still issues in regard to maintaining records of trade and submitting periodic reports; as well as responding to communications by the Secretariat related to information that a species in Appendix I or II is being adversely affected by trade as well as contribution to CITES Trust Fund.

From the year 2015, there has been an increased political will to enforce the existing legislation has improved. However, the country still faces illegal trade in endangered species, evidenced by reports of captured illegally traded species. Effective implementation of CITES related laws is constrained by limitations in terms of human and financial resources among agencies responsible for the general enforcement of the wildlife legislation and criminal justice; lack of in capacities to effectively and scientifically investigate and successfully investigate wildlife crimes (including contravention of CITES), and limited awareness on wildlife law in particular regarding laws enforcing CITES in the country among the members of the community and worse even among members of law enforcement authorities and adjudication bodies. The weakness in laws and law enforcement actions in Zanzibar adversely to impact effectiveness of wildlife conservation laws in the country.

crisis and prospects for a secure future. *Fordham Environmental Law Review*, 27(3), 394-441.p.433; Akella, A. S., & Allan, C. (2011). Dismantling wildlife crime: Executive summary. *Traffic*, 2012(15). p. 8

¹⁴⁶ Phelps, J., Webb, E. L., Bickford, D., Nijman, V., & Sodhi, N. S. (2010). Boosting cites. *Science*, 330(6012), 1752-1753.pp.1753-54; Dickson, B. (2008). CITES and the livelihoods of the poor. *Oryx*, 42(4), 548-553.

¹⁴⁷ Phelps, J., Webb, E. L., Bickford, D., Nijman, V., & Sodhi, N. S. (2010). Boosting cites. *Science*, 330(6012), 1752-1753. p.1753.

¹⁴⁸ Nijman, V. (2010). An overview of international wildlife trade from Southeast Asia. *Biodiversity and conservation*, 19(4), 1101-1114.

¹⁴⁹ Rosen, G. E., & Smith, K. F. (2010). Summarizing the evidence on the international trade in illegal wildlife. *EcoHealth*, 7(1), 24-32. p. 24.

¹⁵⁰ Warkentin, I. G., Bickford, D., Sodhi, N. S., & Bradshaw, C. J. (2009). Eating frogs to extinction. *Conservation Biology*, 23(4), 1056-1059.

Despite the shortcomings, the country has potential to deepen its enforcement of the Convention through enhancement of commitments and political will to allocate resources to enforcement bodies, improving the legal framework particularly in Zanzibar, participation in regional and international forum and arrangements that seek to conserve wildlife and improve enforcement actions. The envisaged benefits of bestowment of natural resources within the jurisdiction could be further realised through community involvement in conservation efforts mindful of prevailing circumstances and traditions.