Effectiveness of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) in Curbing Elephant Poaching in Zimbabwe

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Abstract

The research focused on understanding the effectiveness and applicability of CITES in curbing elephant poaching in Zimbabwe. CITES regulates international legal trade in ivory in an effort to curb poaching and this is addressed by the theory of complex interdependence. Signatory states adhere to the provisions of CITES but with all this in place elephant poaching is on the rise across Africa and Zimbabwe in particular. Zimbabwe relies on wildlife for tourism thus the threat to extinction is a threat to national revenue. Key informants were purposively sampled and documentary research was used for the case study. The main findings were that poaching Zimbabwe has become very rampant in the past few years with highest numbers recorded between 2012 and 2015. This has been attributed to the economics of demand and supply where high demand for ivory in Asian markets with countries such as China becoming the world's largest destination market for illegal ivory. On the supply side, Zimbabwe is facing economic challenges thus locals are now engaging and aiding in poaching for economic survival. The research concluded that CITES weaknesses is in that it only provides state parties with technical support thus without the financial support anti-poaching efforts are ineffective.

Key words: CITES; Elephants; Poaching; Ivory trade; Illegal trade; Zimbabwe; Flora and fauna

1. INTRODUCTION

Elephant poaching has become a global predicament which has resulted in considerable public pressure on consumer countries, particularly the United States, European Union, and Japan, to put harsher restrictions in place (Sands & Bedecarre, 2013). This development saw the United States and the United Kingdom in 1989 employ bans on ivory imports, while Japan and Hong Kong implemented amplified controls (Kaempfer & Lowenberg, 2012). Elephants across Africa have become the target for poachers and armed non-state actors including rebel movements such as the Lord's Resistance Army (LRA) to gratify increasing demand from growing middle classes across the world, predominantly in Southeast Asia where ivory products are considered status symbols and used as ingredients in traditional medicine (Beyers, 2011; Lawson & Vines, 2014). Transnational organized crime groups and armed non-state actors have exploited institutional flaws, legislative loopholes and civil conflicts in both source and consumer countries to feed the growing demand for rare possessions, acquiring enormous profits. A discordance between national legislation and institutional capacities for execution on the one hand, and multilateral environmental agreements such as the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) on the other, means that national legislation often remains insufficient to support these initiatives, in protecting endangered species and regulating cross-border trade (TRAFFIC, 2007).

The African elephant (*Loxodonta Africana*) is listed in CITES Appendix I (endangered species threatened with extinction), except in Botswana, Namibia, Zimbabwe and South Africa, where it is listed in Appendix II, after a request from these states to relegate the status of their elephant populations due to their larger numbers (Milliken, 2013). Following calls by countries with healthy populations of elephants, CITES allowed one-off sales of ivory from elephants that had not been illegally

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killed to Japan in 1999, and again in 2008. Beyers (2011) argues that despite the purpose of these sales to lessen a growing demand for ivory, it in fact increased, and from 2000 to 2002 at least 1,059 African elephants were discovered with their tusks removed. In some areas on the other hand where elephant populations were downgraded from Appendix I to II, such as those living south of the Zambezi River, they maintain living in large and well-managed populations (Milliken, 2013). Whether or not the escalating demand for ivory was spiraled by the one-off sales, the estimated poaching rate of African elephants in 2012 was 7.4 per cent; an untenably high level which presently exceeds natural population growth rates of around 5 percent. The general weight and number of large-scale ivory seizures measured at more than 500 kg surpass those recorded in any previous year.

Poaching is spreading mainly as a result of a rising demand for illegal ivory in the hastily rising economies of Asia, predominantly China and Thailand, which are the two key end-user markets globally (Milliken, Burn, Underwood & Sangalakula, 2012). The soaring levels of poaching are, in some cases, facilitated by convicts that, through lawlessness and subsequent abundance of small arms, offer optimal conditions for illegal killing of elephants. Further up the trade chain, extremely organized criminal networks function with relative impunity to move huge shipments of ivory off the continent and to markets in Asia. The occurrence of unregulated domestic ivory markets in several African cities, coupled with the huge number of potential Asian buyers living in Africa linked with infrastructure projects and resource extraction operations, also increase the demand for ivory.

2. LITERATURE REVIEW AND THEORETICAL FRAMEWORK

This section reviews the theoretical framework that best describes the collectiveness of states in the drive to curb poaching and illegal trade of endangered species. The theory of complex interdependence is explored to elaborate how states depend on each other for problem solving solutions. Literature that is related CITES and its effectiveness in curbing elephant poaching globally, regionally and particularly in Zimbabwean will be critically analysed. This body of research gives an insight into what other scholars have discussed in the challenges of illegal trade of endangered species the world over. The CITES as the governing convention is analysed to determine whether its provisions are attainable for member states to implement effective strategies in curbing poaching of endangered species.

2.1 Complex Interdependence Theory

The theory of complex interdependence as propounded by Keohane and Nye (1977) refers to 'situations characterized by mutual effects among states or among actors in different countries'. Keohane and Nye (1987) further emphasize that the mutual effects of interdependence always entail both costs and benefits, since interdependence restricts autonomy and benefits from interdependence are not always guaranteed. Therefore, interdependence between states will directly or indirectly constrain state behavior in that states have to maximize the benefits and minimize the costs of interdependence. The world has become interdependent in economics, communications and human aspirations. The key actors of this period are 'non-territorial' actors, for instance multinational corporations, international organizations and worldwide social movements. Keohane and Nye (1987) discuss interdependence in the context of these assumptions. They start by defining interdependence as a position of mutual dependence where the loss of autonomy creates reciprocal costly effects. This in essence sees countries giving up their autonomy by becoming signatory to different international conventions including CITIES. States therefore depend on each other in upholding the provisions of CITIES in the preservation of endangered species.

Complex interdependence is realized in the nature of international trade in wildlife and wildlife products as a major commercial activity. Hutchens (2014) posits that research undertaken to date have been stimulated because international trade has been seen as a problem for that specific species. CITES from its English language acronym, was adopted in the recognition that international action is essential to control and regulate international trade in threatened species of wild animals and plants to ensure their long-term survival. Mrema (2014) asserts that the Convention provides a framework to guarantee intergovernmental co-operation in this respect. Its adoption was based on the fact that international trade in wildlife is a concern wherein precautionary global action was both feasible and necessary. Further, a multilateral agreement would avoid a situation in which ad hoc unilateral trade restrictions penalised individual importing or exporting countries compared to other countries not applying such restrictions.

The trans-boundary character and threats created by cross-border illegal dealers has made several states realize that individual efforts and the conventional enforcement tactics are no longer proficient in providing effective protection to the African species from illegal trade organised by international structured crime syndicates (Mrema, 2014). Consequently, states feel there is a grave need for closer co-operation among designated national law enforcement agencies to save the invaluable African wild fauna and flora. That need has led to more rigorous and concerted efforts at regional levels to complement the already existing global mechanisms or instruments. The development and adoption of the Lusaka Agreement on

Co-operative Enforcement operations directed towards illegal trade in wildlife one of the attempts by African (the Eastern and Southern) states to adopt more stringent measures to decrease, and eradicate illegal trade in wild fauna and flora. It also implements and enforces CITES at a regional level. The Agreement aims at easing the administrative difficulties currently hampering cross-border efforts to restrict trade.

2.2 Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) 1975

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) is an international agreement to which States (countries) remain voluntarily. States that have decided to be bound by the Convention ('joined' CITES) are recognized as Parties. The reason of the Convention is to control the international trade in endangered species of fauna and flora to make certain their survival is not threatened. CITES entered into force in 1975 and presently 181 States are signatories to the Convention (CITES, 2015). CITES works by subjecting the international trade in specimens of chosen species to certain controls, and all Parties to the Convention are obliged to put into practice a licensing method to authorize one or more Management Authorities to the management of that licensing structure and to assign one or more scientific authorities to advise them on the effects of trade on the status of the species. All Parties have to report yearly to the CITES Secretariat on the number of specimens traded, as well as on what national actions they have used to fulfil their international obligations (CITES, 2013; Lemieux and Clarke, 2009).

The power of CITES rests in its capacity to impose preventive sanctions on the trade of protected species by states who are not complying with the Convention (Reeve, 2006). Effectively, these sanctions can hurt the capability of noncompliant countries to profit from the regulated wildlife market. The main objective of CITES is to prevent the overexploitation of species through international trade and to ensure their long term survival. The ultimate aim of the Convention is to promote species conservation.

i. The fundamental principles as laid out in Article II CITES (1975) state that,

Appendix I shall include all species threatened with extinction which are or may be affected by trade. Trade in specimens of these species must be subject to particularly strict regulation in order not to endanger further their survival and must only be authorized in exceptional circumstances.

ii. Appendix II shall include:

(a) all species which although not necessarily now threatened with extinction may become so unless trade in specimens of such species is subject to strict regulation in order to avoid utilization incompatible with their survival; and

(b) other species which must be subject to regulation in order that trade in specimens of certain species referred to in sub-paragraph (a) of this paragraph may be brought under effective control.

iii. Appendix III shall include all species which any Party identifies as being subject to regulation within its jurisdiction for the purpose of preventing or restricting exploitation, and as needing the co-operation of other Parties in the control of trade.

iv. the Parties shall not allow trade in specimens of species included in Appendices I, II and III except in accordance with the provisions of the present Convention.

In the case of Appendix II species, the Convention text identifies some aspects of "not detrimental" by requiring that export "should be limited in order to maintain that species throughout its range at a level consistent with its role in the ecosystems in which it occurs and well above the level at which that species might become eligible for inclusion in Appendix I". Therefore, all international trade in species listed in the two main CITES Appendices must be accompanied by an assessment of the impact of trade on wild populations, termed a Non-Detriment Finding (NDF). Signatories to CITES are required to designate one or more Scientific Authorities to make NDFs and to advise the Management Authorities who issue CITES permits.

CITES strength lies in that it can protect many species and that the convention is one of the most widely signed international laws with 181 signatories. This means that it works across borders thus has the strength to regulate across borders. CITES is also legally binding on the Parties and so there must be political will to implement and locally enforceable laws where the poaching or trade may be happening. This can be equated to the shoot to kill policy that was practiced in Zimbabwe in 1993 which had the fastest results and reduced poaching even though it was later criticized as violating human rights. However, the weakness in protecting endangered species is that it is difficult to enforce in that implementation varies from country to country. This is seen in that prosecution of offenders has often been stochastic and sentences are relatively light for the severity of the offence. Local legislation in both the countries of origin as well as destination countries is not strong enough to act as a deterrent. Wildlife authorities do not have the necessary authority, resources and political will from their governments to effectively carry out their jobs as Hwange National Park is said to have 50 rangers (Stiles, 2015) which is disproportionate to the numbers endangered species they are supposed to protect.

Murphy (2012) posits that international conventions and treaties are among the most important formal sources of modern international law, also seen as conventional sources. Though officially the most commonly applicable and emanating foundation of international law, they are neither the only source nor the most authoritative one, for creating rights and obligations under international law. For any study of the sources of international law, Article 38 of the Statute of the International Court of Justice is always the preliminary point, which is acknowledged as a

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definitive statement of the sources of international law.

IFAW (2006) report states that smuggled ivory from Africa to China is processed in China's regulated ivory traders exported to South Korea, Japan, Europe and United States of America. In January 2014 more than six tones of confiscated ivory were openly destroyed in Dongguan, Guangdong Province, a key hub of ivory trade in China (New York Times, 2014). This milestone move represented the first time that this country, the leading source of demand for illegal ivory from Central and East Africa (CNN, 2014), has destroyed what is considered an admired product by the growing Chinese middle class. Transnational organized crime operators and smaller-scale armed groups are drawn to the high profits and low accountability linked with the wildlife crime trade. Variable, conflicting or weak legislation across states and regions coupled with pitiful rates of prosecution ensure sizable profits for the middlemen involved in the trade, who include expatriate Vietnamese and Chinese nationals living in Eastern and Southern Africa as well as Chinese and European nationals in the European Union (IFAW, 2006).

2.3 Brazzaville Draft Strategy (2015)

At continental level, the International Centre for Trade and Sustainable Development (2015) reported that African heads of state, experts, and policymakers converged for the International Conference on Illegal Trade in Wild Fauna and Flora in Africa from 27-30 April 2015 in Brazzaville, Republic of Congo. The leaders made progress on advancing an Africa-wide draft strategy and action plan to decrease and eradicate the illegal trade in wild animal and plant species. The draft strategy would target trafficking of the continent's fauna such as rhinos and elephants, as well as clamp down on illegal fishing and timber trade. According to African Union (2015) the Brazzaville Draft Strategy 2015 would be functional from 2015-2024. The document represents the first such pan-African move towards tackling the illegal wildlife trade challenge. The strategy and its action plan continue to be developed in consultation with African nations.

The Draft Strategy outlines seven key objectives for African states tackling illegal wildlife crime and trade which include; increase the capacity of source and transit states in detecting illegal activities, particularly at borders, increasing capacity, increasing political commitment; enhanced engagement with consumer states to reduce demand for illegal products, knowledge and public awareness; improvement of governance and regional cooperation; the promotion of economic development and local community livelihoods through sustainable use of wild fauna and flora and reduce and possibly eliminate the economic and security impact of environmental crime; (International Centre for Trade and Sustainable Development, 2015). The draft strategy looks to enhance the legal and institutional frameworks dealing with illegal wildlife in African nations but also aid implementation of international commitments.

African Union (2015) says that the Brazzaville Draft Strategy also aims to help raise adequate resources to help with its implementation. Furthermore, importance is placed on the fundamental role of local communities, whose participation in managing the affected natural resources is deemed crucial by a number of experts. The draft strategy also focuses on transit states and final destinations of illegally traded specimens as having a part to play in clamping down the trade. Participants at the Brazzaville meeting recommended holding a joint conference with consumer and transit countries in Asia in order to agree on a joint action plan to eradicate the illicit utilization of wildlife products from Africa.

The Brazzaville Draft Strategy also looks at issues of political instability, military and civil conflicts and economic insecurity being providers of major impediments to the effective enforcement of African wildlife laws. Guerilla war in Mozambique in the 1980s, in Angola, civil war in Somalia, and civil conflicts in DR Congo have depleted natural resources and facilitated cross-border incursions by poachers into game reserves and parks (Gurung and Guragain, 2000). Weapons from Mozambique to Swaziland and from Somalia to Kenya have been used by poachers to seriously decrease those countries' endangered species. Poaching has also provided a supply of revenue for guerilla movements in strife to an African continent.

2.4 The SADC Protocol on Wildlife Conservation and Law Enforcement (1999)

In order to efficiently protect wildlife, SADC developed the Protocol on Wildlife Conservation and Law Enforcement of 1999. The objectives of the Protocol on Wildlife Conservation and Law Enforcement emphasise the need for regionally approved approaches to protection, management, and the enforcement of illegal uses of wildlife. Information exchanges concerning wildlife management and utilisation is vital for effective conservation. Mrema (2014) posits that the Protocol on Wildlife Conservation and Law Enforcement promotes national and regional capacity building and the facilitation of community based wildlife management.

The SADC Protocol came as a concerted effort by the regional body in trying to curb wildlife poaching. This was after its predecessor, the Lusaka Agreement was conceptualized during the first African Wildlife Law Enforcement Cooperation Conference held under the auspices of CITES and the Zambian Ministry of Tourism in Lusaka from 9-11 December 1992, by senior wildlife law enforcement officers as a mechanism to deal with the problems faced by national law enforcement agencies in attempting to combat international wildlife smuggling syndicates and in particular lack of formal means to enable cross-border cooperation (Mrema, 2014). Other problems

identified include: cross-border poaching, difficulties associated with investigations, and customs and the size and fluidity of the borders among many African countries, such as Tanzania's Selous Game Reserve, which makes cross-border smuggling between Lindi, Iringa, and Coast region a lucrative business for poachers (Stiles, 2015). Ill-equipped wildlife technicians, limited helicopters to conduct surveillance and field patrols, lack of trained law enforcement officers to conduct undercover intelligence operations coupled with lack of administrative capacity, made it difficult for countries to adequately respond to sophisticated and well resourced cross-border smugglers.

Child (2012) notes the SADC Protocol also came into force as the region noted that poor or inadequate laws were considered as impeding factors to the national efforts to combat illegal trade or smuggling of wildlife species. For instance, the powers of enforcement officers are limited and constrained to their national jurisdictions and the officers are powerless across borders while in hot pursuit or to institute legal proceedings against well-known poachers, unless legal mechanisms, such as extradition agreements, exist. Even where extradition arrangements exist, rules of evidence which differ from country to country make it difficult for the prosecution cases to succeed as they could be knocked down on technical grounds (Cumming, Du Toit and Stuart, 1993). Additionally, the extradition procedures do not essentially allow for swift action to be taken. Besides low penalties and unevenness in the severity of the penalties imposed by most African countries against illegal smugglers of wildlife species compared to the value of the specimen poached or smuggled has always been a discouraging factor in undertaking legal processes against the offenders and, hence, fail to deter people from engaging in such lucrative business.

2.5 The Skukuza Agreement (2000)

The ratification and implementation of CITES as a source of international law is seen by the willingness of parties to domesticate provisions of the agreements at continental, regional and national level. In November 2000 the governments of Zimbabwe, South Africa and Mozambique signed the Skukuza Agreement formally establishing the Gaza-Kruger-Gonarezhou Transfrontier Conservation Area (GKG) (Stiles, 2015). The conservation area covers 99,800 square kilometers (km^2) (66,000 km^2 in Mozambique; 22,000 km^2 in South Africa; and 12,000 km^2 in Zimbabwe) Mrema (2014). The 'core protected areas' are Kruger National Park in South Africa, Gonarezhou National Park in Zimbabwe, and Zinave and Banhine National Parks and Coutada Wildlife Utilisation Area in Mozambique. The three governments went on to sign the International Treaty formally establishing the Great Limpopo Transfrontier Conservation Park (GLTP) in December 2002 (Wolmer, 2003).

This treaty made provision for the establishment of the Great Limpopo Transfrontier Conservation Area (GLTFCA). GLTP comprises of the Kruger National Park and the Makuleke region in South Africa, Limpopo National Park in Mozambique and Gonarezhou National Park in Zimbabwe. The governance structure comprises the Ministerial Committee comprising the Ministers of the three participating states which is the decision making body. Mrema (2014) points out that the Joint Management Board, represented by members of the three countries report to and serves as Advisory body to the Ministers and is responsible for the overall management and execution of programs and projects aimed at furthering the intention of the treaty. It also has decision making powers on operational matters. Four technical committees to focus on specific key development areas of the GLTFCA were also established which are Conservation and Veterinary, Tourism, Finance and Human Resources, Safety & Security (Mrema, 2014)

2.6 Zimbabwe Parks and Wildlife Act (PWA) (1975)

The Parks and Wildlife Act was enacted in 1975 and is named the Parks and Wildlife Act (PWA), implementing its obligations under CITES and providing for a relatively comprehensive series of offences and penalties governing illegal trade in wildlife. Further amendments to the enhanced penalty regime under the PWA [Chapter 20:14] in 2011 greatly increased the severity and effectiveness of these penalties (Lemieux and Clarke 2009). In particular, severe mandatory minimum custodial sentences apply to offences involving rhinoceros or other specially protected animals such as pangolins, and to illegal trade in ivory, which fall well within the United Nations Office of Drugs and Crime (UNODC) definition of "serious offences" (Stiles, 2015). Courts may also impose custodial sentences ranging from one to three years for less serious wildlife offences. The PWA also provides for the possibility of fines for all wildlife offences and for severe mandatory compensatory payments for offences resulting in the death of an animal. The Parks and Wildlife Act (1975) General Laws Amendment No.5 (GN148/2011) which was an amendment to section 128 addresses the issue of poaching and illegal hunting and inserts punitive clauses. It states that;

> The unlawful possession of or trading in ivory or any trophy of rhinoceros or any other specially protected animal that may be specified by the Minister; shall be liable to (i) on first conviction to imprisonment for a period not less than nine years (ii) on a second or subsequent conviction, to imprisonment for a period not less than eleven years.

Some of the provisions of the Act clearly lay out what is illegal in (PWA, 1975) [Chapter 20:14] section 97 as;

> (1) The possession of any animal or fish or the meat or trophy of a freshly killed animal shall be prima facie evidence against a person accused of contravening any provision of this Act that he has hunted such animal or caught such fish.

The above provisions show how Zimbabwe has

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robust legislation in place that is theoretically capable of combating wildlife crime and a relatively comprehensive legal framework aimed at protecting and conserving wildlife and natural resources, establishing conservation areas and prohibiting illegal wildlife trade. However, the issue of prima facie evidence against an offender is a loophole within this law. The Herald 24 February (2016) cited that four suspected poachers had been cleared by the court of any wrongdoing after the state failed to prove prima facie evidence against his clients. This means that poaching activities are taking place but as long as the state has no '*animal or fish or the meat or trophy of a freshly killed animal*' (PWA, 1975) then it cannot prove any wrongdoing which renders the law ineffective in curbing elephant poaching.

PWA (1975) [Chapter 20, p.14] section 46 (b) states that;

> (2) The possession by any person of any ivory or rhinoceros horn shall, unless the contrary is proved, be evidence against such person that such ivory or rhinoceros horn was not registered under any regulations made in terms of paragraph (t) of subsection (2) of section one hundred and twenty-nine. (3) If any person who has authority to hunt or fish in terms of this Act is found in possession of animals or fish in excess of the numbers so authorized or of any species or sex not so authorized, he shall be presumed, unless the contrary is proved, to have hunted such animals or caught such fish in contravention of this Act.

The weakness of this law however, as stated by (Mrema, 2014) is that, rhinos are allowed to be hunted for trophies and for live export thus fostering illegal rhino poaching. This even extends to the issue of Cecil the Lion where Minister of Environment, Water and Climate Hon. Oppah Muchinguri was quoted by Thornycroft (2015, p.15) in The Telegraph newspaper as saying that; "We approached the police and then the Prosecutor General, and it turned out that Palmer came to Zimbabwe because all the papers were in order," meaning that Walter Palmer was well within his rights to hunt and is therefore immune to section two and three of the PWA.

Success of the PWA is however seen in the exceptional Communal Areas Management Programme for Indigenous Resources (CAMPFIRE) project. The CAMPFIRE project has been represented as an antidote to the colonial 'fortress conservation' discourse which diluted people's power over their environment and criminalised their use of game (Alexander and McGregor, 2000). Instead, communities are cast as 'partners in conservation'. The central tenets of this scheme, which has become something of an icon among conservation agencies and international NGOs, are that neighbouring communities must receive direct benefits from protected areas and have some say in wildlife management and use if conservation policies are to be effective (Child, 1995). This implies 'sustainable utilisation', rather than preservation, of wildlife with a portion of hunting or tourism revenues disbursed to local authorities. The CAMPFIRE model has achieved the status of conventional intelligence in the Southern African region and internationally, and is approved by a range of generous donors. It has spawned a research industry and has been the subject of countless workshops, conferences and publications (Wolmer, 2003).

2.8 Endangered Species

Endangered species according to (CITES, 1975) are any animal in danger of extinction. The African elephant is part of the endangered species as it is listed in Appendix 2 of the convention. According to World Wildlife Fund (2016) close to 35,000 species are sheltered under the CITES. They are listed in three appendices according to their rank of protection. International, commercial trade in species listed in appendix I is approved only in extraordinary circumstances. The international trade in species listed in appendix II is permissible but is regulated and restricted to guarantee that it is sustainable and legal and it does not threaten the species survival in the wild. Appendix III includes species that are protected in at least one member state, which has asked the other parties for support in controlling the trade of this species (CITES, 2013).

Mrema (2014) points out that at the global level, CITES has put in place a legal framework to control international trade in endangered species of wild animals and plants listed in the appendices. In spite of the fact that CITES does not deliberately state its objective, it is clear that the Convention intends to ensure, that international trade in specimens of endangered wild fauna and flora is regulated and does not threaten conservation status of declining species. The Convention does this by controlling and regulating international trade in three ways. First (Mrema. 2014, p.228) states that;

> It prohibits, with only few exceptions, international commercial trade in species listed in Appendix I; that is, those threatened with extinction. (Articles II (1) and III) The species listed, as at March 2004, in Appendix I include well over 800 endangered species (827 species, 52 subspecies and 19 populations). Second, it gives the responsibility to the exporting State to regulate, through the issuance of permit, trade in specimen of species listed in Appendix II that is not already threatened with extinction to warrant inclusion in Appendix I but which may become so if not controlled. (Articles II (2) and III). Over 30,000 species (32,540 species, 49 sub species and 25 populations) are listed in Appendix II. Third, CITES gives an option to the Parties to gain other nations' cooperation, by enforcing their domestic legislation, which regulate export of species not listed in either Appendix I or II by listing them under Appendix III. (Articles II (3) and V) Over 200 species (291 species, 12 sub species and 2 populations) are listed under Appendix III.

One of the protected species under CITES is the African elephant. Elephants are found in 37 countries or 'range states' in sub-Saharan Africa. According to Challender & MacMillan (2013), elephants are a source of bush meat, but their white gold provides a considerable reward for poachers and it is widely received that ivory driven poaching in the 1970s and 1980s led to a significant

decline in elephant populations. Van Aarde & Jackson (2006) posit that more than 1.3 million elephants roamed Africa in 1979; in 1989, there were roughly 600,000. In Kenya, uncarved ivory was worth $2.50 a pound in 1969, $34 a pound in 1978, and more than $90 a pound in 1989 (Messer, 2000). Because larger tusks meant better profits, bull elephants with tusks weighing six or seven times those of females were the common targets of poaching. This led to tilted sex ratios in some herds, calling into question their long-term survival. It also meant more elephants were killed to meet the weight demands of the international ivory market as the number of bulls dwindled. The raw ivory gotten by poachers is sold to wholesalers and craftsmen and is often shipped overseas before being carved into an assortment of items such as chopsticks, figurines, piano keys and chess sets. Tourists visiting Africa are also responsible for the continuous demand for ivory (Milliken, Emslie & Talukdar, 2009).

The illegal trade in flora and fauna presents a risk to many uncommon species and thus to biodiversity and, for that reason, has increasingly attracted the interest of conservation agencies (Rice, 2008). Milliken (2012) reports that during the past 40 years, conservation agencies have exerted demands on national governments and international agencies to stiffen laws and augment legal penalties for wildlife crimes. Numerous countries employ forestry and fisheries officers to enforce the laws and have formed specialised law enforcement and customs units to arrest traffickers and impound the plants and animals in their possession. These efforts on occasion lead to violence. For example, national park rangers in some African countries have engaged in armed conflict with poachers, with many killed on either side, in order to protect the animals and safeguard tourism.

Milliken (2002) states that apart from Zimbabwe and Japan, CITES has not directly intervened to evaluate conformity with the recommendations for internal trade in ivory as contained in Resolution Conf. Most ivory markets stay unregulated and in the end domestic trade in ivory gives rise to trade which is decidedly international in scale. Reports from the Elephant Trade Information System (ETIS), one of the two systems operating under the auspices of CITES to follow illegal trade in elephant products bring a strong condemnation of the role played by domestic markets in undermining elephant conservation in Africa.

Greed also draws poachers to a trade that is allegedly low risk and high profit. Haken (2011) notes that the worldwide unlawful trade in wildlife products inflicts considerable harmony in developing countries where economic and structural damage imposed on already weak developing states is even more destructive than losses in biodiversity. Traffickers take advantage of deficiency and disparity to attract poachers, operating in territories with little government presence. They have a huge interest in preventing source countries from developing economically

and structurally. Rosen & Smith (2010) also note that illegal wildlife trade undermines the efforts of developing states to administer their natural resources. This results in the loss of potential profits that could be available through development and tourism; here it is important to identify the connection between rebellion groups and remote, almost stateless wildlife reserves which give ideal cover and sustenance for rebels fleeing state authority. This 'loss of earnings' would be on top of the traditionalist estimate that the illegal trade in wildlife excluding timber and fisheries are worth $10 billion per year.

Ivory poaching activity is centered particularly on national parks in the Great Lakes region such as Garamba National Park in the Democratic Republic of Congo (DRC) (Agger & Hutson, 2013; Titeca, 2013). Titeca analyses the level of the ivory trade in and around Eastern Africa, noting the transit hotspot of Mombasa, with ivory flows getting through the DRC and Uganda to the coast in Kenya ready for shipment to Asia. Traditional poachers, Congolese soldiers, South Sudanese armed groups and to a lesser extent members of the Lord's Resistance Amy are all implicated in the ivory trade. Titeca (2013) points out that ivory tusks harvested by the LRA are usually exchanged for food and arms and that they are less involved in transnational organized crime flows.

3. RESEARCH METHODOLOGY

The study employed qualitative methodology. Data was collected through key informant interviews and documentary search. The research participants for the study were drawn from Ministry of Environment; Water and Climate (MoEWC), National Parks and Wildlife Management Authority (NPWMA), Environmental Management Agency (EMA), Zimbabwe Republic Police (ZRP), Zimbabwe Conservation Task Force (ZCTF), and World Wildlife Fund (WWF)

4. DISCUSSION OF FINDINGS

This section provides the key findings for the study.

Legislative framework and wildlife conservation in Zimbabwe

Zimbabwe first adopted a specific Policy and Plan for Elephant Management in 1997 with the long term vision to:

> Conserve elephants at levels that will enable them to contribute to the conservation of biodiversity, national development and Zimbabwe's cultural heritage.

As a matter of policy the plan required that at least four demographically and genetically viable populations of elephants be maintained, that elephant densities be kept below the levels at which they might compromise biodiversity, and that elephant range remain at or above the 1996 level. At the time illegal killing of elephants

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was at a very low level and the plan placed little emphasis on law enforcement. That situation has since changed drastically, with poaching at a crisis state in some countries, although it is said to not be the same extent in Zimbabwe.

The Parks and Wildlife Act (1975) has its strengths in the curbing of elephant poaching. Ellis (2010) closely followed a case where Tichaona Mutyairi, a Zimbabwean rhino poacher with the infamous Mazhongwe gang, was sentenced to 17 years in jail after being captured during an exchange of gunfire with the police in October 2009. The Masvingo regional court took a strict stance, punishing the poacher to the full extent of Zimbabwe's wildlife and firearm laws although this sentence remains a rare occurrence among captured poachers. However, Ellis (2010) goes on to state that international conservationists closely watched the Mutyairi case given the highly varied outcomes in several court cases against members of rhino poaching gangs that had recently been finalized or were still underway. This is because previous court cases have seen many poachers being released from jail escaping punishment instead of facing strong, consistent sentences that would deter them from hunting down Zimbabwe's elephants and remaining rhinos.

The Parks and Wildlife Act is the pivotal legislative framework which protects wildlife in Zimbabwe in conforming to the CITES provisions. The Director Wildlife from the National Parks and Wildlife Management Authority said that:

> Zimbabwe has a well developed set of policies and laws providing for protected areas and wildlife conservation. The policy and legislation explicitly view wildlife as an economic resource which can be used sustainably for the benefit of the nation, private farmers and local communities. The legislation provides for and regulates use of wildlife outside of protected areas including private and communal land. It makes provision for different categories of wildlife so that certain species can be afforded a higher level of protection. It also provides for land holders to gain some use rights over wildlife, within an overall system that is based on the Parks and Wildlife Management Authority issuing permits for most forms of use. PWA provides a higher level of protection to rhino and elephant as it regulates and controls the trade in ivory and rhino horn and follow CITES principles. It enables the shooting of wildlife (including specially protected species such as elephant) in self defence or in defence of someone else's life. Trophy hunting is allowed and is regulated and professional hunters have to be licensed according to legislation.

Elephant Poaching

Poachers have been using poisoning as a method of killing. A total of 317 elephants were killed by poisoning between 2012 and 2015 with the numbers ranging from 111, 109, 21 and 76 respectively. Elephant poaching has taken different methods over the years in Zimbabwe. The two major methods used are shooting and poisoning and a few incidences of snaring. Subsidiary laws are in place to guard against poaching of any kind thus the National Parks and Wildlife Management Authority works hand in hand with stakeholders from the ZRP, EMA and others to make sure they work against poaching. Poisoning has caused a huge stair among conservationists as it kills large numbers of animals at one goal. However, EMA protects against poisoning of flora and fauna and has the requisite remedies for violations of the law.

Most of the poisoning has been done with the use of cyanide which is regarded as a toxic substance as alluded to in the Environmental Management Act (EMA). However, the legislative framework is in place in the fight against poaching of elephants and specifically poisoning as a method of poaching. The Herald Newspaper (2016) quoted ZRP Spokesperson saying they had recovered large amounts of cyanide since January 2015, including more than a tonne of the poison at a warehouse in Bulawayo in the first quarter of 2015.

> On January 7(2015), the supervisor at BAC Logistics Belmont Bulawayo was found in possession of 116x50kg of sodium cyanide, 9x40kg sulphuric acid and 44x30kg nitric acid. The accused person was asked to produce a licence or permit and failed, leading to his arrest. The value of the recovered substances was US$22 991. In another incident in Dete, police recovered 100g of cyanide and arrested three suspects for possession of the substance. On New Year's Eve (31 December 2015), police recovered 50kg of cyanide from another suspect at a roadblock at the 10km peg along the Gweru-Shurugwi-Zvishavane Road.

Shooting has been used as the traditional method of operation for poaching. Statistics show that the highest number of shootings took place in 2015 where poachers shot 221 elephants with 184 elephants shot in 2013.

The inspector from the ZRP Minerals and Border Control said that,

> Poachers are now using sophisticated ammunition such as silencers as they have improved the art of poaching.

He highlighted that the ZRP in 2016 has so far confiscated at least 10 AK47s, .303 and .375 hunting rifles and nearly 200 rounds of ammunition have been recovered from Zambian poachers, mainly in the North West Matabeleland region. There are however two laws that guard against poaching by shooting namely the Firearms Act 1972 (Chapter 10:09) and the Criminal Law (Codification and Reform) Act 2004 (Chapter 9:23). The ZRP key informant specified that one will be charged under the Firearms Act if found in possession of a semi-automatic rifle such as a .303 and the Criminal Law (Codification and Reform) Act applies if suspect is found in possession of a rifle such as an AK47. These laws have been effective in curbing elephant poaching as suspected poachers have been charged and convicted for unlawful possession of such firearms. The laws have the following provisions:

Effectiveness of Anti-Poaching Laws

Wildlife conservation and particularly anti-poaching in Zimbabwe is covered by a number of laws. Key

informants from the WWF, ZRP, ZCTF echoed the sentiments that Zimbabwe is said to have some of the most effective anti-poaching laws which are deterrent enough to prevent poaching in the country. This assertion was also verified in the statistics obtained on the arrests and convictions of poachers from 2012 to date. The Custom and Excise Act of 1963 is another law which is meant to deter people from illegal trade of ivory. The Act curbs against the smuggling of ivory or ivory products.

The article quoted the Zimbabwe Parks and Wildlife Authority spokesperson;

> (We) confirm that an Asian national was today arrested at the Harare International Airport for illegal possession of ivory. He is 34 years old and is a truck driver in his country of origin. He was found with 17 raw pieces of ivory and several worked ivory which included bangles, chop sticks and beads weighing 113.9 kilogrammes valued at approximately $28,250. The suspect was arrested as he waited to board an Ethiopian Airline destined for Malaysia.

Origins of Poachers

Poaching has become a global billion dollar industry which has prompted the rise of global syndicates for easy access and movement of illegally acquired ivory. According to the statistics of elephant poaching in Zimbabwe, indigenous people are the biggest culprits but they are not working on their own as ivory trade is not a lucrative business in Zimbabwe (Hutchens, 2014). The statistics will show that the main poaching nationalities involved in Zimbabwe are Zambians who constitute a huge percentage of arrested poachers and lately the Chinese have joined the bandwagon of poachers.

The challenge of Zambian poachers is not selective to Zimbabwe only but the region as a whole. Six elephants were killed in Botswana and it was linked to Zambian poachers (Hutchens, 2014). The report goes on to say that two Zambian nationals in a group of at least 30 suspected elephant poachers were shot and killed by the Botswana Defence Force during a gun battle at the Chobe National Park on January 4, 2014. At least four Zambian nationals are on trial in Botswana after being arrested in connection with illegal possession of ivory since February 2014.'

The Standard newspaper (27 April 2016) reported that the Zambian government says Chinese ivory trafficking syndicates based in the Southern African countries are sponsoring the influx of Zambian poachers blamed for the recent spike in elephant deaths in the region. Organised Zambian poaching syndicates have since 2012 mounted numerous cross-border poaching expeditions into neighbouring countries with increasingly fatal results. The (Standard 27 April 2016:5) states that:

> In the first months of 2016, at least 66 elephant tusks were recovered from Zambian poachers during 14 separate anti-poaching operations in Zimbabwe's national parks in the Zambezi Valley. By the end of February, six suspected Zambian poachers had been killed in gun battles with Zimbabwean rangers in the area.

Community participation in elephant poaching

The research discovered that community participation is lacking in wildlife conservation. This was deduced from key informants from the Wildlife Conservation Task Force, Zimbabwe Republic Police, Chief's Representatives in Chitsa and Tshovani communities and the statistics attained on the poaching trends. Communities do not feel they are benefiting from living in wildlife reserves or from preserving the wildlife itself thus they are then involved in poaching activities. A key informant from the Chitsa community said that:

> Our understanding is that elephants bring in money for the government and we are supposed to get some money for our livelihoods through programmes like CAMPFIRE but we have not and we are struggling to send our children to school thus prompting the community to engage in illegal poaching activities.

Zimbabwe Conservation Task Force Chairman went further to explain that communities are not ignorant but feel prejudiced thus the involvement in illegal activities. He said,

> Communities understand their role in wildlife conservation but also understand the role of government and its shortcomings. Community projects are supposed to be implemented through the CAMPFIRE but in reality, many of the projects are implemented away from the areas from which the revenues come from and where the people have to bear the cost of wildlife damage. Although these communities benefit to some extent from the distribution of meat from animals culled in the adjacent national parks or killed while crop raiding in their area, this is insufficient incentive to encourage a measure of tolerance towards wildlife. Moreover, the people take no part in making decisions about the use and management of these wildlife resources. As a result, CAMPFIRE is not a sustained success.

CONCLUSIONS

The study concludes that CITES is applicable in the protection of elephants as an endangered species in Zimbabwe. Many species including the elephant are on the brink of extinction due to over harvesting of the species for commercial purposes such as sport hunting (Hutchens, 2014). CITES therefore regulates international trade to ensure that there is no over harvesting in producer countries. It sets quotas for harvesting, for example Zimbabwe is allowed to export a maximum of 500 elephants per year (GoZ, 2014). CITES banned international trade in ivory thus restricting it to local legal trade in end products. A tourist can only export value added ivory, that is carved ivory such as bangles and so on and they are only allowed to export a maximum of three carved pieces per individual.

Wildlife management challenges are mainly financial. Wildlife management requires a lot of resources. Currently wildlife management in Zimbabwe is not supported by financial resources from central government. Wildlife pays for its own conservation (Frost & Bond, 2008).

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The resources raised are not enough and fall far short of required amounts. This affects staff recruitment especially for rangers who should do anti-poaching operations. They are too few covering large tracts of land. This means poachers enter using unmanned areas. Rangers also need equipment in the field such as uniforms, food, ammunition, tents, secure communication and so on which allow them to be more effective. Without these their effort are seriously compromised. Parks needs all terrain vehicles for deployment and movement of equipment and goods. Mobility is therefore a challenge without the right vehicles. The research findings also concluded that CITES has its weaknesses in helping states with wildlife management. The body only provides state parties with technical support thus the financial aspect of the support is lacking for which therefore hinders anti-poaching efforts (Groom, Gandiwa, Gandiwa, and Van der Westhuizen, 2013).

Zimbabwe is ranked as one of the elephant range state with remarkable anti-poaching legislation which was also concluded by the research. Wildlife management and elephant poaching in particular is guided mainly by the Parks and Wildlife Act of 1975 (GoZ, 1975). The Act allows for the formation of an agency, the Parks and Wildlife Management Authority in tandem with CITES provisions. The PWA makes provision for the Minister to declare certain animals as specially protected under Section 44. In terms of the Act, no-one may hunt, have in their possession, or sell a live specially protected animal or the meat or trophy from such an animal without a permit (GoZ, 1975). The trophy of any specially protected animal must be surrendered to the state if not obtained by a permit. The Act specifies the purposes for which the Minister may issue a permit for use of specially protected animals (Section 46), but provides the Minister with some flexibility as he or she may issue a permit for any purpose which in the opinion of the Minister is in the interests of the conservation of animals.

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