

## POLICY BRIEF

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### Rights Based Approach to Conservation:

Can legal trade provide the protection  
endangered species require?

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#### Ramsar Convention

There is a wealth of international law on protecting biodiversity and species conservation from the Ramsar convention on saving the wetlands to CITES, the largest regulator of international trade in endangered species. However, despite this legislation, poaching is on the rise and the black market for endangered specimens is now the second largest globally behind narcotics. Species decline is continuing with the Western Black Rhinoceros recently being poached to extinction. How then, if the law is simply not enough, can we hope to combat poaching and conserve our biodiversity heritage?

Modern writers are focusing on rights based approaches which comes in a variety of formats. For example, specimen ownership without trade such as can be seen with South African white rhino populations. Privatised in the early 1900s, the white rhino populations have thrived, growing from less than 100 to 20,000 with around a quarter being in captivity. The short answer to this success is the intrinsic need people feel to protect what is theirs. These rhinos receive far greater protection by virtue of being owned than wild specimens. Similarly, conservation receives limited funding partially due to the inability of wildlife to pay for its own protection. This is particularly prevalent in developing nations where resources must be carefully distributed. However, in captivity these species can provide their own revenue through tourism, permitted trade where available and even hunting permits in the case of hunting lodges. This revenue can then be devoted to the protection of these specimens in a manner which wild species cannot obtain.

#### Quasi-Ownership Restoration

A slightly different example can be found in the Kunene region of Namibia where the IRDNC has been working with local communities to restore a quasi-ownership over the land they depend on for their survival and the species which inhabit it. This conservancies project operates differently to strict ownership, relying more on community pride and the desire to feel connected to the local environment, but has a similar effect. By creating a private rights type bond between these communities and the wildlife, the protection of these species has vastly increased and populations have soared. However, the problems inherent to increased legal protection can also be seen here: put simply, the greater the protection, the greater the risk which drives prices up and increases incentives to poach.

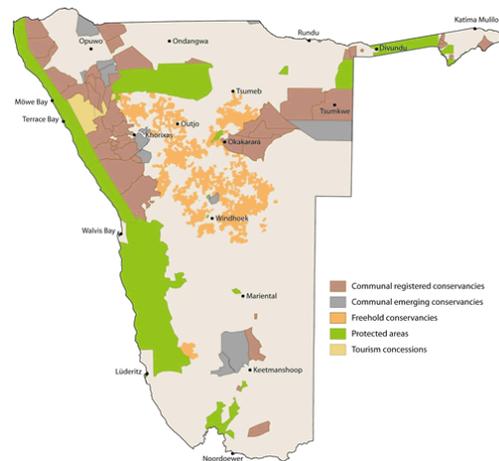
The most extreme option is legalizing trade in endangered species and, although arguably contrary to the aims of CITES, many contend this is the best way forward. At present, rhino horn is worth \$65,000 per kilo with each horn weighing around six kilos. That's a massive incentive despite increased protection measures. However, Heinrich and Brown postulate that if trade is made legal, that price could fall to as little as \$900 per kilo. This should drastically reduce the incentives for poaching and combine with the increased protection of ownership to allow endangered populations to begin to improve.

However, this approach is not without its challenges. Many of the economic models rely on inelastic demand which is likely unachievable. Even in the illegal market demand has been seen to reduce, due to stigma campaigns or domestic regulations, and significantly increase, stemming from new uses in terms of both medicine and recreation. If the legal market were opened, it seems foolish to believe that demand would remain inelastic as legal trade itself would surely stimulate demand. While many models allow for some elasticity, it often fails to reflect even the demand changes noted above and this assumption must be dealt with before legal trade can be realized.

The presumption of demand inelasticity derives from the traditional uses which most of these products are required for. This also raises the question of substitutability. In these traditional practices, it is doubtful that farmed products will be deemed as potent as wild products which may create two markets: the legal, regulated market; and a continuing black market for wild products. One may argue that the products are often indistinguishable, particularly powdered rhino horn, but this only highlights another core problem: if a legal market opens, it could simply provide a new avenue for laundering. This is one of the biggest concerns about legalizing trade. Biggs suggests DNA tagging of products although this is likely to increase market costs and reduce incentive devaluation. Furthermore, distinguishing between legal and wild products may only exacerbate problems of substitutability. This is a particularly challenging issue and must be approached with care.

Many of the current models focus on rhino horn due to their sustainable product – 97% of a horn can be harvested and still grow back. This issue is far more challenging in respect of species like elephants, with a one use product, or tigers, where the animal must be put to death. However, legal trade has been successful in the past with Nile crocodile leather. Despite being a product that requires the death of the specimen, the crocodile market has been praised as successfully reducing poaching, increasing populations and even stimulating economies in the form of goods and employment. It is easily argued that this model could transfer to more challenging species such as tigers – Bulte and Damania find sustainable tiger farming a realistic option in their model. It can be assumed, therefore, that these models could be adapted and it is hard to picture species for which legal trade won't at least be an option.

Legalizing trade is not without its difficulties and certainly will require a delicate touch. However, the decreased incentives, increased protection and previous examples suggest that it remains an excellent option, one we are likely to see at least in respect of rhinos in the near future. Ultimately, time is of the essence and present methods are continuing to fail in the face of increased poaching. Though clouded with uncertainty, a legal market may be the exact drastic change required to achieve conservation success.



*The cost of legal rhino horn could fall from \$65,000/kg to just \$900/kg*



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The Strathclyde Centre for Environmental Law and Governance is also a hub for excellence in PhD and postgraduate teaching programmes in environmental law and governance within the Law School. It hosts a Visiting Researcher Programme and welcomes consultancy collaborations with public and private policy makers and stakeholders.

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### **Callum Murdoch**

Callum Murdoch is a recent graduate from the University of Strathclyde. After obtaining his undergraduate honours degree in Law, he completed his Masters in International Law and Sustainable Development. He has held a particular interest in environmental law for some time, particularly issues of biodiversity and conservation. Hoping to continue exploring this interest, Callum is intending to enter the international law sphere and develop experience before considering his PhD. At present, Callum has recently returned from a volunteer placement in rural Bangladesh and is working in the financial sector pending his Masters graduation. Callum can be reached by email at [cjm9pp@hotmail.co.uk](mailto:cjm9pp@hotmail.co.uk).

#### Past Policy Brief Papers:

C Murdoch, Rights Based Approach to Conservation:

Can legal trade provide the protection endangered species require? SCELG Policy Brief, No 1/2015