

Responding to organised environmental crimes

Collaborative approaches and capacity building

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The aim of this article is to discuss the ways in which collaboration and a coordinated approach to dealing with criminal groups involved in environmental crime can be established and bolstered. The article begins by examining the challenges associated with organised criminal networks and transnational crimes for environmental law enforcement agencies. Such analyses continually highlight several factors: the importance of collaboration in combatting organised criminal networks; the need for flexibility in dealing with fluid on-the-ground situations; the importance of up-skilling in order to move laterally across different institutional and national contexts; and – the lynchpin across all of these areas – capacity building for sustainable practice. Various forms of collaboration are outlined, as well as the importance of trust and relationships in maintaining cooperative arrangements. A case study is used to illustrate contemporary developments relevant to enhanced collaboration with regard to environmental law enforcement.

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Moves to establish and develop a National Integrated Strategy for Combatting Wildlife Trafficking in South Africa highlight the strategic need for collaboration and, as part of this, the

importance of critical reflection on the nature of multi-agency partnerships. The Department of Environmental Affairs, for example, recognises the need for an integrated management approach to issues such as poaching, bringing together national, provincial and local environmental and parks authorities into a national forum.¹

Operational activities pertaining to environmental compliance and enforcement are thus enabled and supported at the onset by forward planning and agreed-upon implementation plans.

Yet, while collaboration is a desired organisational goal, when involving direct

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operational stakeholders as well as external agencies (including non-governmental organisations [NGOs]), the dynamics of collaboration are seldom adequately examined to ensure maximum effect. Assumptions about collaboration are made (for example, that because they may be constitutionally mandated, everyone is on the same page operationally), but experience shows that it is easier to talk about partnerships than to concretely forge effective cooperation. This is especially so when the target for intervention involves organised criminal groups and networks.

This article explores key aspects of agency interaction in order to demonstrate the possibilities and dilemmas associated with collaboration. In South Africa as well as elsewhere the demand for collaboration is manifest in policy prescriptions and statements of intent. We examine several models of collaboration, from other jurisdictions as well as at a regional scale, in order to discern potential ways in which to put the concept into practice.

Dynamics of collaboration

An examination of the challenges associated with organised criminal networks and transnational crimes for environmental law enforcement agencies continually highlights several factors: the importance of collaboration in combatting organised criminal networks; the need for flexibility in dealing with fluid on-the-ground situations; the importance of up-skilling in order to move laterally across different institutional and national contexts; and cutting across all of these areas, capacity building for sustainable practice (that is, putting into place practices and procedures that will ensure continuity over time).²

Environmental crime poses challenges for environmental law enforcement, especially from the point of view of police inter-agency collaborations, the nature of investigative

techniques and approaches, and the different types of knowledge required for dealing with specific kinds of environmental harm. Moreover, many of the operational matters pertaining to environmental crimes are inherently international in scope and substance. The complexity of environmental crime means that greater investment in enforcement policy, capacity and performance management is needed in most jurisdictions, and Africa is no exception.³

The scale and number of role players involved in environmental crime range from small to large, local to international, loose associations to more formalised networks, and temporary and transient to the more enduring. Intelligence sharing and priority setting are thus needed to utilise law enforcement capabilities in the most effective manner. For example, in the United Kingdom, an intervention around illegal exports of hazardous waste targeted the ‘big, bad and nasty’ networks to maximise results for effort.⁴ Similarly, intelligence-led detection and investigation need to target the high-level players in the supply chain who are profiting most from wildlife crime in order to break up organised criminal networks and to have more wide-ranging impact.⁵

In recent years, addressing shortfalls or technical difficulties in environmental crime prevention and law enforcement has led to a range of collaborations between international bodies, governmental organisations and NGOs, and national governments.⁶ To be effective, agencies need to be able to harness the cooperation and expertise of many different contributors and to liaise with relevant partners at the local through to the international level. A ‘joined-up’ approach also means that links can be made between different forms of crime as well as between different agencies, and different parts of the world. For instance, illegal fishing has been tied to trafficking of persons, smuggling of migrants and the illicit

traffic in drugs. This is due to the influence of transnational organised crime in the fishing industry worldwide.⁷

To build capacity and capability, the activities of and collaborations among environmental crime response agencies have tended to naturally occur around networks that are geographically based (for example, known transit points and destinations in Africa), discipline-based (for example, environmental prosecutors) and commodity-based (for example, wildlife).⁸ Collaboration across these dimensions and involving these networks can be predominantly horizontal (across agencies), vertical (within agencies) or diagonal (within and across agencies). There is no fixed or usual way in which collaboration occurs – instead, the collaboration takes its shape depending on many factors, including how various networks are constituted. What is clear, though, is that for environmental crime, collaboration matters.⁹

Not surprisingly, given the international nature of the illegal wildlife trade, South Africa is significantly engaged with the Interpol Environmental Crime Executive Committee. In turn, Interpol has played an important role in developing an integrated multi-pronged approach to environmental law enforcement, working in conjunction with many partner agencies and NGOs that share an interest in fighting environmental crime. The key ‘streams’ at the centre of its Environmental Crime Programme are biodiversity (for example, illegal trade in wildlife), natural resources (for example, crimes such as illegal logging and illegal fishing) and environmental quality (for example, illegal transport and trade in hazardous waste).¹⁰ Its framework for collaboration is the National Environmental Security Taskforce (NEST) model.¹¹ NESTs can provide an important focal and intersection point for domestic, regional and global efforts to combat environmental crime. Key attributes of NESTs are that they

involve multiple agencies such as government organisations, international governmental organisations and NGOs, they involve the professional synchronisation of action and, importantly, they involve actors and agencies working with and observing each other.

Ideally, a NEST – which is a national structure – is constituted as a standing body of role players and agencies that are in constant contact and interaction with each other, mobilising specific resources, knowledge and skills depending upon particular circumstances and commodity crimes. Criminal groups and illicit networks have the advantage generally of flexibility and a good working knowledge of local conditions and role players, which facilitate the crimes in question. To some extent, a NEST approach mirrors these attributes. It mobilises a broad range of role players with varying types and levels of expertise, and local through to international connections, around single-purpose interventions. It has the capacity to provide ‘eyes on the ground’ as well as a ‘bird’s-eye view’ of commodity chains and criminal networks, and the community contexts within which activity occurs (e.g., the poverty of communities living close to wildlife parks).

Importantly, it is essential to link NEST activities with wider regional networks so that strong leadership, expertise, governance and accountability can be forged collectively over time, and with mutual support. For instance, it has been observed that joint investigations between countries, whether they are source, transit or destination countries for international wildlife trafficking, have proved effective.¹² Cross-national as well as cross-institutional and cross-agency collaboration is crucial to the success of such initiatives. For example, there are two Wildlife Enforcement Networks (WENs) that help South Africa contribute to regional efforts to strengthen capacity in the fight against the illegal wildlife trade: the Horn

of Africa-WEN (HA-WEN) and the Southern Africa-WEN (WENSA). Having a strong NEST at the domestic level can assist this kind of collaboration at the regional and/or commodity level. This is because information sharing is at the core of NEST activities. If this is accommodated and accomplished between and among the various agencies and actors within a NEST, it opens the door to the application of intelligence-led policing initiatives (based on a strategic and tactical assessment of intelligence databases) as well as market reduction approaches (which target disposal markets, including handlers and consumers).¹³ These require systematic and detailed analysis of specific information. Two-way sharing of information demands that protocols be put into place. In our interpretation of their institutional design and potential capabilities, NESTs can function to encourage communication, cooperation and collaboration between relevant agencies within a nation-state; between specific nation-states (bi-laterally and/or multi-laterally) on general or specific matters of mutual interest; and across all nation states, through national central bureaus, as occurs when Interpol conducts a global environmental enforcement operation.¹⁴

In the South African context, the commencement of the implementation of the National Environmental Compliance and Enforcement Strategy (NECES) in 2015/16 provided a roadmap for more effective and efficient compliance and enforcement activities.¹⁵ NECES demands collaboration across the three tiers of government – national, provincial and local – as well as across government agencies and departments. At the operational level, this translates into multi-authority teams (or what is commonly referred to in law enforcement and regulation as multi-disciplinary teams or MDTs), tackling priority operations in Biodiversity/Protected Areas (e.g. traditional healers' markets and lion

breeding facilities), Oceans and Coast (e.g. coastal discharges) and Environmental Impact Assessment and Pollution (e.g. waste water treatment facilities). It was noted by the NECES that '[i]n order for the Inspectorate to execute its strategic and operational functions at an optimal level, its actions need to be based on a sound legal, information management and capacity development platform' and that, furthermore, 'the nature, scope and complexity of environmental crime requires the widespread collaboration of a range of key law enforcement partners in order to achieve the positive results recorded in this report'.¹⁶ In essence, this describes a NEST-like approach to collaboration. In each case, however, the emphasis on law enforcement must not override sensitivity to holistic understandings of wildlife crime and the varied economic, social and cultural drivers behind such activities. The incorporation of NGOs and relevant community bodies and representatives, is, therefore, a vital component for responding adequately to specific situational contexts.

South Africa is a source and transit country for various environmental commodities and crimes, most notably those derived from and related to mega-fauna such as rhinoceros and elephants, and wildlife smuggling. Its obligations to key international conventions and initiatives, and associated factors such as corruption and capacity limitation, means that it will often need to work jointly with global partners such as Interpol and the United Nations Environment Programme. Moreover, countries that have the interest, desire, expertise and resources play a role (for example, Norway for fisheries and the United States [US] for wildlife), although this ought to be framed as supportive and complementary rather than imposing a presumed 'universal' or 'one-size-fits-all' model, especially given that country-specific contexts vary greatly.

Building capacity for collaboration

We now turn to enhancing capacity building for sustainable practice. In order to do so, we consider issues pertaining to the activities of the US Fish & Wildlife Service (USFWS), which is committed to supporting the regional efforts of WENs worldwide and works with its partners to facilitate communication and cooperation between WEN members.¹⁷ Our argument is that such initiatives work best when engagement is considered in reciprocal terms, rather than presenting (yet another) ‘outside’ involvement in other people’s domestic affairs.

With a long history of global engagement, the USFWS created a dedicated International Operations Unit in 2016. The unit has five senior special agents stationed as ‘special agent attachés’ at US embassies in Bangkok, Beijing, Dar es Salaam, Gaborone and Lima. A new special agent was recently selected to serve as an attaché in the US embassy in Libreville, Gabon. These attachés initially dramatically expanded the reach and effectiveness of the USFWS law enforcement programme, while improving coordination and communication among law enforcement agencies across their regions. They have assisted their host country and regional law enforcement partners in wildlife trafficking investigations by providing local governments with investigative expertise, technical assistance, training and capacity building. They have also increased coordination among government agencies, and support WENs throughout their areas of responsibility.

Range states and local communities must have the necessary education, training and resources to effectively fight wildlife trafficking. The cornerstone of the USFWS strategy has involved strengthening and expanding collaboration with range states, agencies and partners to the greatest extent possible. Demand for wildlife products half a world away may drive poachers and traffickers. Poached and trafficked wildlife

may be smuggled through half a dozen ports and cross numerous international borders before reaching their destination. An effective response requires strategic, intelligence-based law enforcement. It requires a robust legal framework, as well as the investigative, prosecutorial and judicial capacity to apprehend and prosecute traffickers, seize the proceeds of the crimes, and apply penalties that deter and prevent others from committing wildlife crimes. Yet all of these requirements simultaneously demand that powerful global authorities and agents listen carefully to and learn from the contributions of range states and local communities to policy and strategy formulation.

The US government has funded projects that provide basic field gear and training for ranger-led anti-poaching patrols, as well as training for community member involvement in conservation activities. The USFWS has supported regional efforts around the world to facilitate and coordinate a wide variety of investigative and technical training programmes. Intensive training programmes for law enforcement leaders from African countries have also been offered at the national conservation training centre in the US. It is important to note that the US is also a transshipment point and destination market for endangered wildlife. This, too, is perhaps one of the reasons why South Africa would want to cooperate with the US with regard to environmental enforcement initiatives. Equally, the US would benefit from drawing on local community knowledge and experience to inform its responses to this crime type.

Additional support to the WENs is provided by the National Fish and Wildlife Forensics Laboratory and the Digital Evidence Recovery and Technical Support Unit (DERTSU), which provide forensic support exclusively for wildlife crimes. Last year, the forensics lab examined more than 2 700 individual items of evidence in support of 370 wildlife crime investigations. All

large-scale wildlife trafficking cases investigated by the Office of Law Enforcement involve at least one or more types of digital evidence, such as smart phones, computers or GPS units. These devices require special techniques for proper handling and examination. The lab and DERTSU are staffed by technical experts who provide multi-layered expertise (both technical and investigative) to assist field officers with large-scale and complex investigations, both domestically and internationally. Such facilities and personnel resources could complement the considerable forensic science work and support conducted by South Africa-based laboratories, especially in the field of rhino-related crimes.

One question worth further consideration is where and how the money on forensic work should be spent. Strategically, for example, in terms of the worldwide trade in endangered species, it may be better to have greater US investment directed at expanding Southern African forensic capabilities and labs rather than concentrating primarily on foreign sourced illegal products within the US itself.

While collaboration is favoured by most countries, the specific role players, sources of funding and content of collaboration remain contentious. This is because collaboration on an international scale is never politically neutral; nor is it immune to domestic political events. For example, regardless of stated 'good intentions', many countries are wary of US assistance and intervention (as well as that of other donor countries), in that US interests are frequently seen to trump other interests in international operations and aid programmes.¹⁸ There may also be profound differences in local understandings of legitimate and culturally appropriate responses to environmental crime, compared to those proposed by US officials. Moreover, the election of a uniquely idiosyncratic US president has ushered in an era of both policy and budget uncertainty with regard to

international environmental law enforcement. The gagging of public servants and blocking of information (for example, release of scientific findings pertaining to climate change) and the overhaul of the Environmental Protection Agency, now headed by an acknowledged climate change contrarian and pro-industry advocate, signals how quickly collaborative efforts can be undermined by a change in political leadership. These changes obviously impact the conditions under which agencies and role players work together.

Critical challenges for collaborative practice

It is important to study the strengths and challenges of collaboration in general (especially those involving formalised environmental law enforcement networks), as well as how such approaches (which centre on personnel and professional development) pay attention to the dynamics of cross-cultural exchanges and training. Issues of concern include corruption (i.e. the undermining of effective responses), timing (i.e. adopting proactive approaches that address the urgency of intervening before more species disappear), harmonisation (i.e. ensuring that people and agencies are roughly on the same page) and governmental support (i.e. government responses to external influences and the funding and resources allocated to enforcement fields), among other things.

In its most basic sense, collaboration simply refers to people or agencies working together for a shared purpose. However, the meaning of and processes pertaining to collaboration as a form of social practice can be complicated and variable. This is due to the different functions and missions of specific agencies, and the varied levels at which collaboration can take place. It is our view that a strong collaborative network at the domestic level, such as a NEST, can simultaneously provide the basis for robust and resilient collaborations involving international

partners, especially where the latter may be under threat due to shifts in policy and funding.

To effectively respond to environmental crime, partnerships and collaborations therefore need to be established at local, regional and international levels. These partnerships need to leverage off and involve, where practical, existing networks, have clear drivers and a collaboration/partnership champion. Who takes the lead role in a partnership or collaboration, and what kind of leadership model is adopted (e.g. hierarchical or one based upon shared responsibilities), needs to be worked out: this can be on an established (fixed term, rotating leads) or situational basis (depending on locale, crime, agencies involved, first responder). The lead role is, in turn, determined by the structures, processes and purposes of the collaboration. Finding a suitable driver is vital to the success of collaborative action. As the case of the USFWS illustrates, there are also intrinsic political and financial aspects to who does what, why and under what circumstances.

As mentioned, collaborations such as the NEST are, ideally, constituted as ongoing structures with a multi-commodity focus, with the key member agencies providing the core. This is different to establishing a task force to combat an issue within a local or specific national context. The specific form of collaboration depends in part on answers to the questions: 'Do we need to collaborate in this instance?', and 'For what specific purpose or outcome are we collaborating?' In any given situation, 'what works' depends upon purpose: a once-off task force may be useful in particular circumstances (responding to a specific criminal network in a particular locale); but this is different to an overarching coordinating body (such as a NEST). There also needs to be room for ad hoc as well as more structured collaborations. The nature of inter-agency interaction is also highly contingent upon the extent of engagement in each instance.

Building capacity is about establishing avenues by which the greatest possible engagement can be leveraged.

What is most important in joint working arrangements, however, is the human element. At an operational level, things seem to work best when we work with people we trust. This takes time. It also frequently involves informal as well as formal contact. The former is especially important when top-down directives impose communication bans using official channels. Relationships of trust can take years to build – between individuals, teams and groups, agencies and institutions. They can also take seconds to unravel (one person betraying a confidence; an event that goes 'pear-shaped'). Resilience must be built into the equation somehow, in part by establishing protocols, but also by ensuring that both teams and individuals are highly engaged. At a practical level, this means that the soft skills of interpersonal communication are critically important. Moreover, since formally and informally we tend to go to our 'personal contacts' first in sizing up situations (including agency relationships and collaborations), it is important to analyse who the real 'doers' and 'drivers' are in any organisation, regardless of official status.

Conclusion

Responding to organised environmental crime requires that people work together on multiple levels, bringing new tools, expertise and resources to the collective project. To exploit the full capabilities of the international community to combat wildlife trafficking means adjusting to the ebbs and flows of public opinion, governmental change, and environmental law enforcement capacity. Systems that support continuity and development in this area include models of practice based on a wide variety of role players and agencies interacting on a regular, formalised basis. Thus, to be effective, partnerships and collaborations demand that time, energy

and resources are built into the workload of individuals and agencies. It also has to be recognised that periods of ‘nothing happening’ (which are resource neutral) will be interspersed with intense periods of activity (which is resource intensive). Therefore, the more time spent in contact and working together (across agencies), the better stakeholders will be able to pull together collective resources in times of greatest need.

As political, ecological and financial circumstances change, so too will the dynamics of collaborative practice. Adoption of the NEST at the domestic level, and the WEN at the regional level, suggests possible models for collaborative practice. How effective these are and whether they are worth following are empirical questions worth pursuing in future research and evaluation.



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Notes

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