



Vietnam Legal System on Protection Wild Animals

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Abstract

Animals are a part of environment around humans. They are essential to human survival. Animals not only are resource of economy but also make people happy with entertainment activities. They play important roles in the life of people. However, animals always face with the dangerous of extinction because of over hunting of human. Therefore, governments of states have tried to build a legal system to protect the animal before risk of extinction. Besides the domestic legal system, the governments of nations around the world have signed many conventions and treaty to co-operate to protect the animal over the borders. Vietnam has a large of forest and sea, so we have many kinds of animals and Biodiversity. Therefore, we are active member of many international conventions on animal protection such as Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) [1]. Besides, we also have many legal documents govern this field such as Law on Biodiversity 2008 [2], Law on Forest 2017 [3], and Law on Forest Protection and Development (2004) [4], etc. On this Paper, I will analysis the role of legal system to protect the animals besides the analysis the relationship between the humans and animals. Then I will brief some lessons from the reality to protect the animals. Moreover, I will give some recommendation to enhance international co-operations between countries on protection of animals. To do these missions. I use many methodologies of researching such as theoretical research methods of analysis-synthesis methods-inductive interpretation, statistical methods, and comparative method to go from research the actual evolution to generalize and make a judgment general trend.

Keywords: Human; Animal; Legal relationship

Introduction

Vietnam is the member of many international conventions and treaties, such as the Convention on Biological Diversity, the Convention on Wetlands of National Importance, The Convention on International Trade in Endangered Species of Wild Fauna and Flora, etc.

The most important international Convention related to protection of wild animals is Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). CITES is a treaty between member states on the control of trade and trade wildlife species to avoid overexploitation leading to extinction. CITES includes about 5,000 animal species and 25,000 plant species, divided into 3 appendices:

Annex I includes: Species endangered by extinction. The trade in and exchange of species included in this annex must include both the Export License and the Import Permit issued by the CITES

Management Authority of the exporting country and importing country.

Annex II includes: All species, although not currently endangered, may be extinct if not properly exploited. Trafficking of these species between countries requires Export Permit issued by the CITES Management Authority of the exporting country.

Annex III includes: All species that each member states are required by law to prevent or restrict exploitation and it is necessary to co-operate with other Members to control the trade. Trafficking of these species requires an Export Permit issued by the CITES Management Authority of the exporting country. (Figure 1) showing number of recorded transactions.

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Law on Biological Diversity No. 20/2008 / QH12, dated 13 November 2008. The Law lays down a Chapter IV with 18 articles regulating the conservation and sustainable development of species object. Accordingly, wildlife species will be considered for inclusion in the list of endangered precious and rare species that are prioritized for protection in order to protect endangered or endangered species of wildlife species. No exploitation and wildlife exploitation are in the wild. The law also regulates provisions to protect areas, decentralization of sanctuaries and prohibited practices within the reserve.

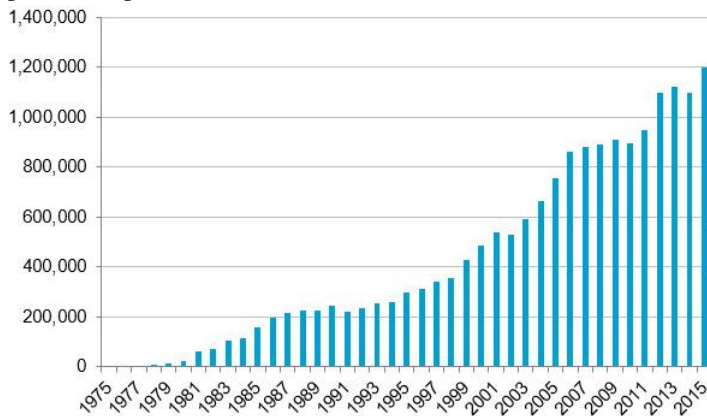


Figure 1: Number of recorded transactions [1].

Law on forest protection and development (2004)

The law came into force on 1 April 2005. Accordingly, illegal hunting, shooting, capturing, trapping, captive and illegal slaughtering of forest animals is strictly prohibited. At the same time, the law stipulates that the exploitation of forest animals must be permitted by competent state agencies and comply with the law on conservation of wildlife. Business activities, transportation, export, import, temporary import for re-export, temporary export for re-import, transit of forest plants and animals must comply with the provisions of Vietnamese law and international treaties which Vietnam Signed or acceded.

Forest Law 2017

The Forest Law 2017 was passed by the National Assembly and will enter into force on January 1, 2019, replacing the Forest Protection and Development Law 2004. The Forest Law also prohibits all hunting, confiscating, killing, storing, transporting and trading wild animals; collecting specimens of forest plants and wild animals.

The Penal Code (enacted in 2015, amended and supplemented in 2017)

From January 1, 2015, the Penal Code 2015 (amended and supplemented 2017- referred to as the Penal Code 2017) has begun to take effect. According to CRC 2017, violations related

to wildlife can be punishable by imprisonment of up to 15 years or 5 billion VND for individuals and a fine of up to 15 billion VND, suspended from 6 months to 3 years or suspended. Only permanently active for legal entities. See details here. 2. Criminal Code (1999, amended in 2009) Criminal Code No. 15/1999 / QH10 contains provisions on the violation of regulations on animal protection. Article 190 [5]. When the Criminal Code is amended and supplemented in 2009, Article 190 is amended to be a violation of the regulations on protection of animals in the list of endangered precious and rare species. Protection priority. Accordingly, acts of hunting, killing, transporting, trading and capturing wild animals of endangered precious and rare wild animals shall be prioritized for the protection or illegal transportation or trading of products and parts thereof. The body of the animal can be punished with up to seven years in prison.

Decree of guidance of government

- Decree No. 160/2013 / ND-CP dated 12/11/2013 of the Government on the criteria for species identification and regime for management of species on the list of endangered precious and rare species prioritized for protection.
- The Decree stipulates a system of criteria for assessing and identifying wildlife species included in the list of endangered precious and rare species prioritized for protection. Accordingly, species listed in the list of endangered precious and rare species will be protected if (I) the number of individuals is small or threatened with extinction and (II) is endemic to one of the special values in science, medicine, economics; ecology, landscape, environment and culture-history.
- The decree also stipulates the principle of conservation of endangered, precious and rare species that are prioritized for protection and a strict mechanism to manage the exploitation; exchange, purchase, donate, rent, store and transport specimens; Raising and salvaging species on the list of priority species for protection.
- Decree No. 82/2006 / ND-CP dated 10 August 2006 of the Government on the management of export, import, re-export, introduction from the sea, transiting, breeding, rearing and Artificial propagation of endangered precious and rare wild fauna and flora species.
- The Decree specifies the order and procedures for the export, import, re-export, introduction from the sea, transiting, breeding, rearing and artificial propagation of animal and plant species, (including hybrids) of endangered, precious and rare species, including: (1) Specimens of wild fauna and flora species specified in Appendices I, II and III to the Convention on National Trade wildlife endangered species (CITES); and (2) Specimens of endangered, precious and rare

wild fauna and flora species in accordance with the law of Vietnam [6].

- Decree 32/2006 / ND-CP dated 30 March 2006 of the Government on management of endangered, precious and rare forest fauna and flora. The decree classified the endangered, precious and rare forest animals into two groups, depending on their level of protection and protection (1) Group IB: Prohibition of exploitation and use for commercial purposes; and (2) Group IIB: Limitation of exploitation and use for commercial purposes. See detailed information here.
- Circular 04/2017 / TT-BNNPTNT dated 24/02/2017 of the Ministry of Agriculture and Rural Development List of species of wild animals and plants specified in the Appendix of Convention on International Trade in Endangered Species of Wild Fauna and Flora The Circular replaces Circular No. 40/2013 / TT-BNNPTNT dated 5 September 2013 of the Minister of Agriculture and Rural Development and updated. A list of wild fauna and flora species is provided in the Annexes to the Convention on International Trade in Endangered Species of Wild Fauna and Flora.
- Circular 25/2016 / TT-BTNMT dated 22/09/2016 of the Ministry of Natural Resources and Environment guiding the registration form, certificates of biodiversity conservation facilities and forms of conservation status of species on the list of endangered precious and rare species prioritized for protection by biodiversity conservation facilities. This Circular provides guidelines on procedures and necessary papers. To register the establishment and operation of biodiversity conservation facilities. See details here.
- Circular 47/2012 / TT-BNNPTNT dated 25/09/2012 of the Ministry of Agriculture and Rural Development on management of natural exploitation and rearing of common forest animals. On 25 September 2012, Ministry of Agriculture and Rural Development (MARD) issued Circular No. 47/2012 / TT-BNNPTNT on management of exploitation from natural and conventional forest animals. This Circular lists 160 common forest animals that are allowed to be harvested and cultivated for commercial purposes, in accordance with the provisions of the circular. See the details here.
- Circular 90/2008 / TT-BNN dated 28/08/2008 guiding the handling of material evidence of forest animals after confiscation. Violations will be handled in accordance with the order specified in this Circular based on the level of endangered and rare species of each group (IB, IIB, Appendix I CITES, Appendix II CITES or forest animals, usually, common, normal). Treatment is also based on the type of material that is alive, dead or part of the plant, whether it is domestic or imported. For example, domestic and wild IB animals are handled in the following order: (i) Restore natural habitats; (ii) transfer to the Animal Rescue Centre if injured, sick, weak need rescue; (iii) Transfer to scientific research institutions (including breeding facilities), environmental education; (iv) Selling to zoos, art performances and lawful animal raising establishments in accordance with law; (v) Destruction of individual animals carrying the disease or if they cannot be cured by the above measures. In case of death, or parts or products of species of group IB, they shall be: (i) Transferred to scientific bodies, environmental education and training institutions, specialized museums, specialized management agencies; Rescue such species for sale or transfer of medical establishments for drug research and development; (ii) Destruction if the material is disease-causing or cannot be treated by the above measures. See more details here:
- Decision 11/2013 / QĐ-TTg dated 24/01/2013 of the Prime Minister bans the export, import, sale of specimens of some species of wildlife in Annexes of Convention on International Trade in Endangered Species of Wild Fauna and Flora Decision prohibiting the export, import and sale of wildlife specimens in the Annexes to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and their products, including: (1) White rhinoceros (*Ceratotherium Simum*); (2) black rhinoceros (*Diceros Bicornis*); and (3) African elephant (*Loxodonta Africana*) [7].
- Decision 95/2008 / QĐ-BNN dated 29/09/2008 on promulgation of the Regulation on management of raised bears. This Decision is the successor of Decision 02/2005 / QĐ- BNN dated 05/01/2005 on the issuance of the Regulation on the management of captive bears showing the commitment of Vietnam to the international community in managing the number of bears kept in captivity and stopping the new bear from self Therefore, all acts of hunting, trapping, buying, selling, slaughtering, transporting, advertising, exporting, importing, temporarily importing, re-exporting bears and products, Derogation from bears contrary to the law is strictly prohibited. In addition, the Decision also lays down provisions on cages, farms, hygiene, veterinary and bear registration conditions. See more details here:
- Decision No. 82/2008 / QĐ-BNN dated 17 July 2008 of the Ministry of Agriculture and Rural Development announces the list of endangered species in Vietnam should be protected, rehabilitated and developed. This Decision promulgates the list of endangered aquatic species in Vietnam which needs to be protected, rehabilitated and developed [8]. Based on the criteria of IUCN - International Nature Conservation - Version 2.2, 1994 and Vietnam Red Data Book - Version 2007, Endangered species (EX), Extinct

(EW), Critically Endangered (CR), Endangered (EN) and Vulnerable (VU). See detailed information here:

- Directive 28 / CT-TTg dated 17/09/2016 of the Prime Minister urgent prevention and fight against illegal acts of wildlife species Directive Calls on relevant parties to prevent and combat violations of endangered, precious and rare wildlife products, especially those whose trades are complicated by ivory and rhinoceros horn. Accordingly, the Prime Minister requested ministries, branches and provincial People's Committees to continue implementing.
- Directive 03 / TT-TTg strictly in the management and protection of endangered wildlife. See details here.
- Directive 03 / CT-TTg dated 20/02/2014 of the Prime Minister enhances the direction and implementation of measures to control and conserve endangered wildlife species, rare, rare, precious and rare. Through this directive, the Prime Minister requests ministries, sectors and localities, including Ministry of Public Security, Ministry of Industry and Trade, Ministry of Finance, Ministry of Defense, Ministry of Agriculture and Rural Development, The Ministry of Justice, the Ministry of Foreign Affairs, the Ministry of Information and Communications, the Supreme People's Procuracy, the Supreme People's Court, the People's Committees of the provinces and centrally-run cities, They propagate knowledge and laws to combat wildlife crime. Refer to the detailed content here. II. Provisions on the handling of violations.

Decree 155 replaces Decree 179 from 01/02/2017, stipulates the forms of administrative sanctions for illegal wild animals in the prohibited area and violations of regulations on management of conservation facilities. Biodiversity. Decree No. 155/2016 / ND-CP does not stipulate that sanctions on endangered, precious and rare species are prioritized for protection as all violations related to this species are currently being addressed. Revised by the Penal Code 2015, revised and supplemented 2017. Please refer to the detailed content here 4. Decree No. 157/2013 / ND-CP dated 11/11/2013 of the Government stipulating penalties for violation The Decree No. 157/2013 / ND-CP is a document stipulating the level of administrative sanctions for violations in management, forest development, forest protection and forest product management. Development, protection and management of forest products (including wildlife). Accordingly, based on the nature and extent of the violation; aggravating and extenuating circumstances in which hunting, shooting, trapping and catching behaviours; raising, confining, deriving from forest animals; killing of forest animals; Illegally transporting forest products illegally or buying, selling, storing, processing and trading forest products without legal dossiers or lawful dossiers but forest products not in conformity with the contents of dossiers shall be

sanctioned up to 500 VND million for individuals and VND 1 billion for organizations [9].

- Decree 103/2013 / ND-CP dated 12 September 2013 Regulations on sanctioning administrative violations in fisheries activities Decree on sanctioning levels of administrative violations For all acts of exploiting, buying, selling, collecting, keeping, keeping, preliminary processing, processing and transportation of endangered precious and rare aquatic species classified as endangered or receiving Collection, preliminary processing, preservation and transportation of aquatic species on the list of prohibited fishing up to 100 million for individuals or 200 million for legal persons. In addition, the seized aquatic species must be released to the natural environment (if alive) or transferred to the competent authority (if dead). See more details here 6. Joint Circular 19/2007 / TTLT / BNN & PTNT-BTP-BCA-VKSNDTC-TANDTC dated March 8, 2007 guiding the application of some articles of the Criminal Code on crimes commit in the field of forest management, protection Forest management and management This Joint Circular guides the implementation of Article 190 of the 1999 Criminal Code on Crimes of Prevention of Rare and Precious Wildlife. Accordingly, rare species are species belonging to group IB of Decree 32/2006 / ND-CP. At the same time, the circular also provides specific guidelines for assessing the violation to cause serious, very serious or particularly serious consequences to apply aggravating circumstances. Specifically, the Circular promulgated the Appendix on determining the number of individuals of endangered, precious and rare species of group IB as a basis for determination. For example, the behaviour related to bear, 1 individual is causing serious consequences, 2 to 3 individuals are very serious consequences, 4 or more individuals are particularly serious. Whenever a violation of an individual tiger results in a particularly serious consequence. Detailed information is here.
- Official 2140 / VKSTC-V3 dated 08/06/2016 on the recovery of handling cases, cases of illegal storage and transport of ivory, rhinoceros horns. Summing up the directions of the Supreme People's Procures, the Supreme People's Court and the Ministry of Public Security in guiding the Procures at all levels to apply Article 155 of the Penal Code to settle outstanding cases related to material evidence of ivory and rhinoceros horns occurring before the date of Penal Code 2015 (amended 2017) takes effect. See more details here C- Other References IUCN Guidance on Disposing of Animals This is a guide to the International Union for Conservation of Nature (IUCN) on the treatment of wild animals. After being confiscated for conservation purposes.

Discussion

Roles of law on animal protection

Regulations of legal system create the basic background to protect wild animal. We do know that, the government use law as official tool to govern almost activities in social. Protection activities of wild animals are not exception. Roles of law to protect wild animal expose as following:

1. Stipulate and list the kinds of animals need to protect.
2. Rules how to protect them by regulating the rights and obligations of citizens to protect the animals.
3. Encourage activities to protect the animals.
4. Stipulate the sanctions to punish people who have illegal activities and Endanger for animals.
5. International conventions/treaties on protection of animals play an important role to enhance co-operation between countries on protecting animals.

Currently, the situation of environmental crimes in general, crime of wildlife in particular is developing very complicated with many new tricks and sophisticated, cunning. In many cases, the range of activities and the extent of damage to biodiversity are enormous. This poses a great challenge in the investigation and discovery of this crime against law enforcement agencies in Vietnam. Therefore, training cooperation between the People's Committee and international organizations on wildlife protection aims to improve the capacity of investigating and discovering crimes for cadres, lecturers and propaganda capacity. Wild life protection for trainees is considered as the right direction contributing to protecting ecological balance, protecting biodiversity in our country [10].

How to improve the situation of animal protection by law nowadays

Vietnam is one of the countries with a great diversity of ecosystems, species and genetic resources, especially precious, rare and endemic species. However, this precious resource is being threatened by a number of causes, including the exploitation, hunting, trading and consumption of illegal wildlife, which is a hot issue of global concern. The main reason for the rapid decline of wildlife populations is pushing many endangered species of Vietnam to the brink of extinction.

We have many legal documents to govern the relation between human and animal but the effective of these laws is not high. Therefore, we need to have more methodology and solutions to make the law on animal protection be enforced more effectively.

Besides, we need to enhance popularizing by training to all of people know about the law on protecting animals and increasing moral of people to protect animal. We can make some short film, program show about law of wild animal protection on TV. There

are many ways to make the law live with the people every day. Then, people know and obey the law better.

The two sides share the goal of preserving endangered species in Vietnam by reducing illegal trade, researching habitat protection, finding solutions to species populations, and increasing understanding know species knowledge to support the development of legal regulations on wildlife and biodiversity protection.

Increasing international co-operation on animal protection

There are many project has been done to boost the co-operation between Vietnam and other countries to protect wild animal. For example, USAID and Freeland Organization co-operate with some university of Vietnam to train law and regulation on wild animal protection for students. Training and fostering of law enforcement officers to prevent and fight crime of wildlife, especially the trade of these animals. Also at the ceremony, Freeland representatives handed over a set of monographs on environmental crime investigations and training materials on rare animal trade to the People's Committee. This is a shared resource for the Southeast Asian wildlife law enforcement network developed by Freeland Foundation within the framework of the Asian Program for Action against Trafficking in Endangered Species (ARREST). Accordingly, this document is considered to be an effective toolkit to provide Vietnamese law enforcement officers with new knowledge and new tactical methods in the investigation of wildlife crime.

Vietnam and Four Paws International Organization signed an agreement on animal protection. Both sides have issued a Memorandum of Understanding on the Conservation of Endangered Species. Share international experiences; attract technical assistance to develop new policies needed to promote the management and conservation of wildlife in Vietnam; to enhance the cooperation and mutual understanding between Vietnam and other countries and organizations in the field of biodiversity conservation; Capacity building in Vietnam from international experiences applied in policy development and enforcement of conservation legislation.

In response to this problem, in addition to the international legal and binding instruments that Vietnam is a member of such as the Convention on Biological Diversity, the Convention on Wetlands of National Importance The Convention on International Trade in Endangered Species of Wild Fauna and Flora Vietnam has also fostered relationships with domestic and international partners, agencies and organizations in the fight against trafficking, illegal consumption and protection of wildlife.

Ioana Dungler, Wildlife Division Director of Four Paws International in Viet Nam, said the collaboration marked a



significant step forward in improving the conservation and survival of wildlife threatened in Vietnam. Four Paws International has worked hard to build a world where wildlife is not caught or spawned for economic gain. Four Paws International wishes to support Vietnam in developing new policies to strengthen the management and conservation of wildlife.

In 2017, Four Paws International was officially established in Vietnam. However, the organization has previously sponsored a partner in Vietnam to build the Ninh Binh Bear Conservation Centre. Phase 1 of the project was completed on an area of 3.6 hectares and can care for 44 bears. To date, the centre has rescued 8 individual bears. By 2015, Four Paws International will design and build a semi-wildlife centre for bears at the Hanoi Wildlife Rescue Centre so that bear species will have a better habitat for their species.

Recently, the Department of Nature Conservation and Biodiversity (VEA) has coordinated and exchanged with Four Paws International on cooperation activities to conserve wildlife.

Conclusion

Vietnam has built an enough legal system to protect the wild animals. Moreover, Vietnam also active to join in and negotiate to become a member of many international legal agreements on protecting wild animals. With the positive and active to protect nature resource including wild animals, we believe that Vietnam will do better the mission of protecting animals now and future.

After researching the legal documents related to wild animal protection in Vietnam, I have some recommendation of several solutions as following:

1. Vietnam Government needs to improve the implementation of law and international convention more effectively.
2. Vietnam should make policy of co-operation with other countries to protect the wild animals more successful and effectively in the future.
3. Relieving the Natural.
4. Destructive Humanitarian Guidance also outlines the principles of handling, analysing how decisions are made to evaluate the Applying solutions that are consistent with current regulations, customary practices and economic conditions but still ensure the conservation of species.
5. Moving to the Rescue Centres.

Declaration of Interest

The author has no relevant affiliations or financial involvement with a financial interest in or financial with the subject matter or materials discussed in the manuscript.

Conflicts of Interest

There is no conflict of interest.

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