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THE ORGANIZATION

TRAFFIC is an international NGO with regional, semi-autonomous offices in every major geographical region around the world. TRAFFIC as a whole is a joint program of the World Wildlife Fund (WWF) and the International Union for the Conservation of Nature (IUCN). This means that, when it comes down to the really important decisions, the WWF is often “the boss” because the WWF is the main contributor of funding to TRAFFIC’s work, although TRAFFIC does raise some money itself. As a result, there is a little bit of a friendly rivalry between TRAFFIC staff and WWF staff.

I worked with TRAFFIC Southeast Asia, which is one of the biggest and most important TRAFFIC offices in the world. The main reason why the Southeast Asia office is one of the biggest and most important is its location. The office is located in Petaling Jaya, which is a suburb of Kuala Lumpur that reminds me very much of Mesa, Arizona, in an Asian sort of way. However, the actual location of the office is not so important, rather, it’s the broader location of being in Kuala Lumpur, Malaysia, which is one of the major international transit points for all of Southeast Asia. Southeast Asia is one of the two most biologically diverse and ecologically important regions in the world, with the Amazon region in South America being the other. Add to this a number of somewhat young, if not unstable and corrupt, independent nations and you have a recipe for a region that could appropriately be described as the center of the wildlife trafficking universe.

TRAFFIC is a wildlife trade monitoring organization. As such, it often straddles the line between scientifically based and globally well-respected conservation work, and regional enforcement agency that does everything but put the handcuffs on poachers and traders and send them to jail. However, in my time here, I noticed that these two operations often conflict with each other as much as they benefit each other. For example, most of the field research that the staff members perform in order to write their reports on the current status of illegal trade of a certain species or in a certain area provides the researchers with knowledge of the black market supply chain or the people participating in criminal activities. The question then becomes, ‘what to do with that information?’

While every published TRAFFIC report is sent to the relevant governmental agencies in the country or countries concerned by the report, more specific information about illegal actors is usually withheld from being published. The conflict comes with the fact that telling the wrong government office can often lead to tip-offs of the traders, as corruption is so rampant in most Southeast Asian countries that it is assumed as the norm, rather than the exception. Once the traders are tipped off, and law enforcement officers are unable to locate or arrest the criminals, TRAFFIC not only looks bad for going beyond its “observe and report” boundaries, but the initial report may lose some of its power, and future reports or studies may be hampered by the scattering of poachers and traders.

On the other side, many TRAFFIC reports include details of governmental incompetence or willful disregard for wildlife crimes happening underneath a government’s nose. Although simply mentioned in a report, and backed with impeccable scientific data and research, some governments do not like to be told how incompetent or corrupt they are and may threaten to shut down all TRAFFIC related activities in their countries. This recently happened in Indonesia after a particular report on tigers was published. Although TRAFFIC has resumed work in Indonesia, they are now running in a more underground and considerably less “official” manner. Hence, in these situations, it may be better to offer any information and help to encourage a government to take immediate action rather than sit

back and point to the government's inaction. Naturally, these situations change with the country, the type of report, and the species concerned, but the conflict between TRAFFIC's main priorities is almost always palpable amongst the staff in the office.

As a wildlife trade monitoring organization, TRAFFIC works very closely with the Convention on International Trade in Endangered Species in Fauna and Flora (CITES) regime. TRAFFIC representatives from around the world attend all of the CITES meetings of the Conference of the Parties, and often attend meetings of other CITES groups, such as the Animals Committee and the Plants Committee. TRAFFIC offices send published reports to the CITES Secretariat, and within the official CITES documents, many of the references to trade activity and species availability in specific countries come from the work of TRAFFIC staff around the world.

In addition to trade monitoring and reporting, TRAFFIC also conducts several capacity building trainings for government officials. These trainings can cover many things, including how to identify and distinguish certain species as they go through customs, common smuggling techniques to look for, education on the law and instruction on how to apply it, workshops for judges to impress upon them how serious wildlife crime is, and even making presentations at scholarly or momentum-building conferences. In fact, the report I wrote as my major contribution to the office this summer is planned to be used at an upcoming training event for the ASEAN Wildlife Enforcement Network (WEN), the main regional task force for combating wildlife crime in Southeast Asia.

MY WORK

I worked on one major project for TRAFFIC Southeast Asia, with the exception of week dedicated to research in an emergency situation. The main project I worked on was a review and analysis of all relevant domestic laws and regional and international conventions, agreements, or commitments in force in each of the 10 ASEAN nations that could be relevant to fighting illegal harvest and trade of marine species, with special attention paid to marine turtles and coral.

The Association of Southeast Asian Nations (ASEAN) is a regional intergovernmental organization originally created to promote economic and cultural development in Southeast Asia. Since its founding in 1967, ASEAN has grown from five members (Indonesia, Malaysia, The Philippines, Singapore, and Thailand) to ten with the addition of Viet Nam, Lao PDR, Myanmar, Cambodia, and Brunei Darussalam. As extensions of ASEAN's development aims, environmental concerns and sustainability have become major issues within each ASEAN country individually as well as in ASEAN's work regionally. A number of agreements, both binding and non-binding, have been created under ASEAN's stewardship and management that are directly related to wildlife and environmental conservation issues. Further, the Wildlife Enforcement Network is a unique regional enforcement agency designed specifically to aid member states in cracking down on the growing problem of wildlife poaching and trade into and out of the region.

My assignment was to provide a "rapid review" of any and all legislation or regulation, on both the international and domestic levels, that could be relevant to combating illegal harvest and trade in marine wildlife species, with emphasis on marine turtles and coral. My work involved researching all international conventions and agreements that could be relevant, while noting which ASEAN countries have signed and/or ratified each. This involved a lot of Internet research of the texts of several international environmental agreements, as well as the functioning and activities of different parts of each agreement's regime—such as the work of the conference of the parties or committees.



Fig. 1: "Times Square" area in downtown KL

In addition to the research and analysis of relevant international law, I also went through every piece of domestic legislation that was relevant and accessible for each ASEAN country. While every country is different, most have a couple of things in common when it comes to domestic legislation relevant to the protection and conservation of rare or endangered marine wildlife. First, every country has some sort of a wildlife act, which

regulates hunting and possessing different wild animal species, and usually provides some sort of punishment for killing certain protected species without a permit from the government. However, this is where the similarities tend to end, as some countries have older laws that provide extremely weak punishments, and some countries have newer laws that are very thorough and provide adequate punishments for violations. For example, Myanmar's wildlife law protects only a few species, although marine turtles are included, while Brunei's wildlife law provides for only a fine of 100 US dollars for illegally hunting or possessing protected animal species.

Because the focus of my report was on marine species, I also had to look at each country's fisheries laws. Another similarity between all the ASEAN states is that they all have a main fisheries law for regulating fishing activities within national waters. Again, major differences within the fisheries laws appear, with the major difference being whether the country classifies marine turtles and coral as "fish" as covered by the fisheries law, or whether they are protected species under the wildlife laws. Some countries have marine turtles covered under both types of laws.

In addition to the fisheries laws and wildlife protection laws, most ASEAN countries have specific CITES implementing legislation or regulations. These laws are designed to ensure compliance with CITES on the domestic legislation front. These laws will have all species listed in the CITES Appendices included in the legislation or regulation, and are sometimes the gap fillers that provide legal protection to species that are not listed in the wildlife protection laws. This was especially important for coral, as some ASEAN countries do not include coral as protected animal species in their wildlife protection laws, even though nine out of ten ASEAN states have coral reefs growing in their coastal waters. Because most coral species are listed in CITES Appendix II, which means they cannot be traded without a permit stating that the specimens concerned were not taken from the wild in detriment to the survival of the species, these coral species become protected in any country that enacts CITES implementing legislation that includes all of the species listed in the CITES Appendices. However, other countries simply use their wildlife protection laws as their CITES implementing legislation. The problem that pops up in some of the countries that do this is that the attached lists of protected species are not the complete CITES Appendices. This means that there are some species that will be illegal to import or export within a country, but once those species are through customs, possession or sale of

them would not be criminalized. While this is an important gap in a few of the ASEAN countries' domestic legislation, all of the countries include marine turtles and coral in their lists of protected species in their CITES implementing legislations (regardless of whether it was specific CITES legislation or a pre-existing wildlife act used to implement CITES as well), so for the purposes of my report, the gap was not a critical one.



Fig. 2: The statue outside of the Batu Caves, a very important Hindu temple and sacred sight just outside KL.

While the three types of laws noted above are the most important to look at when reviewing domestic legislation regarding illegal harvest and trade in marine species, I also reviewed customs laws, protected areas laws, anti-pollution laws, animal welfare laws, and even some species specific legislation—mostly concerning marine turtles. Not all countries had all of these laws, and some countries probably did have some of them, such as customs laws, but they were completely unavailable without going to that

country and having a translator, which I was not able to do.

Despite the fact that the report on national and international marine species was my main focus this summer, I was exposed to a few other areas of work being done at the TRAFFIC Southeast Asia office. The most notable was one week sometime in June, when I was thrown into the middle of a slight office emergency.

TRAFFIC SEA had subcontracted with a person in the United States to work on a part of a project financed by the World Bank concerning wild tigers in Viet Nam. This person's job was supposed to be something very similar to mine—a review of any and all legislation and international law that *could* be relevant to helping Viet Nam protect its few remaining wild tigers. One week before the report was due to the World Bank, the person who was subcontracted to write the report sent in everything he had done over the past year.

The problem was that what he sent was three pages of an introduction to a report, followed by a near 90-page print out of every treaty in the UN Treaty Database—and that was it. This “report” sent the office into a near panic, as we had less than a week to figure out how to give something respectable to the World Bank.

I was tasked to go through all of the treaties the other person had listed and find any that could be relevant. After three days of work, I had compiled an outline and short summary of nearly everything that could be relevant to tiger conservation in Viet Nam. In the end, the TRAFFIC staff was grateful for my work, but the office had to ask the World Bank for an extension, and eat the chunk of money that was paid up front to the subcontractor, because there was just too much information to write a respectable report in a few days. This situation, I learned, was actually quite common in the NGO world, and, to me, another reason why major international NGOs like TRAFFIC and the WWF should have at least one in-house lawyer to help protect against resource and reputation draining losses such as this one when work is subcontracted out.

Finally, I did get to sprinkle a little field research and “undercover” work into my usual serving of Internet research and writing on the computer. I made several weekend trips to different cities in Malaysia and Cambodia to check out the markets and see if any illegal wildlife was being sold. In addition, I made a trip to the island of Penang, a state in Malaysia where Anson Wong, the Pablo Escobar of wildlife trafficking, lives and operates. Although Wong is currently in prison in Malaysia for trafficking, I was asked to find his shop where his wife is still secretly running the business and to see what, if anything, was available there.



Fig. 3: The Palace of Justice, which houses government lawyers, the high court and other appeals courtrooms, judges chambers, and other administrative offices

I did not find much of interest to TRAFFIC during my weekend excursions, as most markets in Malaysia and Cambodia were not openly selling illegal wildlife. However, I did encounter a baby monkey that was illegally owned in the beach town of Cherating, on the East coast of Malaysia. The TRAFFIC staff was still considering what to do about the monkey, as they all agreed that turning the owner in to the government would result in the monkey going to a zoo or rescue center, where it would almost certainly suffer more than it would with its owner in Cherating. I also found Anson Wong’s shop in Penang. However, on the outside it is simply a furniture store in a residential neighborhood, and I decided not to walk in and start asking about acquiring illegal reptiles.

MY ANALYSIS

There are a couple of observations that I have taken away from my experience with TRAFFIC Southeast Asia. Being my first time to Asia, as well as my first time to work for an NGO and my first time to work on global environmental problems, I learned a lot from my summer in Kuala Lumpur.

First, I got a very in-depth look at the world of NGOs, in particular environmental NGOs. The view I got showed me a world of incredibly smart people, all extremely dedicated and passionate about their work. Nonetheless, it was a fairly disorganized world, both in organizational structure and operational effectiveness. Being a subsidiary of the WWF and IUCN organizations, TRAFFIC is at the mercy of its parent organizations' policies and funding decisions. As a result, there are many things that the staff of TRAFFIC want to do, but are handcuffed either by a lack of funds or by rules of conduct set by the WWF. For example, TRAFFIC is not allowed to actually purchase any illegal wildlife or wildlife products when on undercover research assignments, nor is TRAFFIC allowed to pay off any government enforcement agencies or officials (which sometimes can be the only way to get local law enforcement to act against illegal activities, since many times the traders have paid off the government officials already).

The wildlife conservation NGO world is also a world filled with frustration, anger, and the clashing egos of strong characters in charge of different organizations or departments of organizations. Like many of the world's most pressing problems, and especially most environmental problems, the nature of the problem is both extremely pressing and extremely difficult to effectively combat due to a complex web of causes and drivers of the problem. While those who are experts in the area of a particular problem are extremely well-versed in the distressing statistics and bleak future posed by the problem, they are often at a loss to come up with a solution to the problem, or they know that any solution is so complicated and requires so many different levels of coordination and cooperation that the problem is almost sure to never be solved. From what I saw in the wildlife trafficking and conservation field this summer, the result of these circumstances is an expert community ripe with cynicism and frustration based on the existence of so much knowledge and expertise with so little power and effectiveness in combating the problems. Yet, despite these negative feelings, I did not meet a single person that was not still wholly dedicated to their work and to the fight to stop illegal exploitation and trading of the world's dwindling biodiversity. This summer was truly a lesson in hope and resolve when facing overwhelming odds.

This leads me to my last main observation of my experience with TRAFFIC this summer—there needs to be more lawyers. The regional director of TRAFFIC Southeast Asia and the person who hired me this summer, Bill Schaedla, is different than many of his colleagues. He sees the importance and usefulness of having a full-time attorney on staff at each TRAFFIC office. Unfortunately, most TRAFFIC and WWF offices do not have a full-time attorney dedicated to the myriad legal needs of the office. Bill, on the other hand, hired a local Malaysian attorney last year and brought me, a law student, on board this summer. Bill sees that having a lawyer in the office can help both with corporate in-house counsel issues (which can prevent things like losing a big chunk of money to a sub-contractor who does not perform adequately, as happened this summer with Viet Nam tiger legislation review), as well as with substantive legal fieldwork such policy review and analysis, government and judicial training, and defending or helping the prosecution of different actors caught in the wildlife trafficking industry.

This summer, I was able to witness one of the best examples of how useful having a permanent lawyer can be at TRAFFIC. Before I arrived this summer, two young Madagascan girls around the ages of 20-22 were arrested at the Kuala Lumpur International Airport for carrying hundreds of illegal Indian Star and Madagascan Plowshare tortoises in their luggage. These girls spent months in a nearby immigration detention center awaiting payment and document sorting for their deportation back to Madagascar, where prosecution

of them for smuggling the illegal reptiles was still being considered by the Madagascan government. In addition, one of the girls was pregnant at the time, and ended up having the baby while locked up at the detention center. As a result, her baby did not have any paperwork or a passport, and the bureaucratic snare this caused led to the girl remaining in detention for over a year until the lawyer at TRAFFIC Southeast Asia, Shenaaz Khan, caught wind of the situation.

Over the next several weeks throughout May, June, and July, Ms. Khan visited the girl at the detention center. Ms. Khan learned that this girl had actually been working for Anson Wong, the notorious trader referenced earlier in this report, and was able to provide a wealth of specific information and evidence that could be used against Mr. Wong. Ms. Khan also got the ball rolling on resolving the documentation issues for the girl and her newborn son, worked with the Madagascan authorities to strike a deal allowing the girl to do some work in raising awareness in Madagascar and encouraging local communities to fight wildlife trafficking in exchange for not being prosecuted there, as well as using the information provided by the girl to shine a light on the ineffectiveness and apathy—read corruption—within Malaysia’s government concerning this issue (for example, no law enforcement person had even interviewed the girl in all the months she had been there, and the government had no idea she was so closely connected to Anson Wong). By the end of July, the girl was back home in Madagascar with her new son, without cost to her family (as TRAFFIC paid for the trip home in exchange for her cooperation and information), and TRAFFIC set up a press conference and lodged a police report detailing all of the information about Anson Wong the girl had provided (although TRAFFIC was working behind the scenes and was not officially connected to the police report and press conference). What happens from here remains to be seen, but Anson Wong is scheduled to have a hearing in the coming weeks to appeal his current five year sentence for a different smuggling incident, and this information may be useful in ensuring Mr. Wong does not get his sentence reduced.

All in all, this summer I saw a number of situations, ranging across multiple areas of the law, where having a full-time lawyer on staff at TRAFFIC Southeast Asia was an invaluable resource for the office. When I mentioned this to Bill Schaedla towards the end of my time there, he completely agreed. He said that he really wanted to bring even more legal expertise into the office, and that he wished other TRAFFIC offices and the WWF would do the same. Given the amount of justifiable frustration at the slow pace of progress in combating wildlife trafficking, having a person on staff that can attack the legal aspects of illegal wildlife trafficking could only help move things along a little quicker and give TRAFFIC another avenue to legitimately challenge ineffective governments, promote the rule of law in developing countries with high amounts of biodiversity, and successfully train members of these countries’ burgeoning legal and judicial systems.