

UK policy brief: Legislative complexity leads to limited direct knowledge

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The UK wildlife conservation regime is a set of complex regulations across nations, crown dependencies, and overseas territories.

Table 1 is a snapshot of some of the relevant legislation in the four countries.

Country	England and Wales	Scotland	Northern Ireland
How is the Bern Convention transposed?	Wildlife and Countryside Act 1981	Wildlife and Countryside Act 1981	Wildlife Order 1985
	Natural Environment and Rural Communities Act 2006	Nature Conservation (Scotland) Act 2004	Nature Conservation and Amenity Lands (Northern Ireland) Order 1985
	Conservation of Habitats and Species Regulations 2017	Natural Heritage (Scotland) Act 1991	Environment (Northern Ireland) Order 2002

Country	England and Wales	Scotland	Northern Ireland
How is CITES transposed?	Conservation of Offshore Marine Habitats and Species Regulations 2017		Wildlife and Natural Environment (Northern Ireland) Act 2011
	Wildlife and Countryside Act 1981	Wildlife and Countryside Act 1981	NI is considered part of the EU for CITES purposes because of the NI protocol to BREXIT. Thus, 'The protection of species of wild fauna and flora by regulating trade therein 338/97' still applies and is transposed across the legislation listed under the Bern Convention.
	Control of Trade in Endangered Species 2018	Control of Trade in Endangered Species (Enforcement) Regs 1997	

Table 1 – UK Legislation Transposing the Bern Conventions and the Relevant EU Directives, and CITES

Four themes emerged from my data:

Interpretation: International conventions are inherently broad to get the most parties to ratify them and to give the parties the flexibility to transpose the requirements into diverse systems of legislation. The resulting ambiguity is not intentionally in favour of one ideology or another. In the case of 'sustainable use' the common interpretation has come to be death and killing of wildlife for food and trophies rather than non-lethal forms of wildlife use like ecotourism and photography tours, which should be considered.

Effectiveness: Whereas participants felt the UK was overall effective in its implementation and enforcement of both conventions (except for the badger cull, which may violate the Bern Convention), more resources would make the situation better as would making wildlife crime more of a priority across the countries. In general, the reporting and permit systems of the conventions are open to abuse since they rely, for the most part, on trust, voluntary compliance, and self-regulation. More oversight by the convention Secretariats should be considered, such as more active monitoring of reporting by parties.

Normative consumption (the unquestioned routinised killing and exploitation of wildlife): Participants disagreed about the messages of the conventions. Some felt with CITES that the need to discuss 'Is wildlife trade necessary?' is impossible in the current climate, where many parties focus on the commercial aspects of wildlife trade.

Others felt CITES clearly acknowledges the intrinsic value of wildlife. Since, as mentioned, sustainable use is interpreted narrowly to only mean killing of wildlife, normative consumption was not seen as relevant to the Bern Convention, which focuses on habitats.

Welfare: CITES was not designed to account for the welfare of individual non-human animals. The welfare guidelines during transportation of Appendix I species are the only welfare provision. Habitat conservation approaches, like the Bern Convention, have possibly never integrated welfare into wildlife and habitat management.

Summary

My findings indicate that the legislative complexity leads to limited direct knowledge of the Bern Convention, whereas CITES is well known. The UK is actively engaged in defending wildlife via the transposed legislation required as a party to both conventions. However, the data show that the wildlife who are the focus of these efforts tend to be outside of the UK. This is somewhat the case regarding enforcement as well, where there are continual efforts particularly in terms of CITES (which largely protects species outside of the UK), but few prosecutions and convictions. The international reputation of Border Force, such initiatives as the Illegal Wildlife Trade Challenge Fund (amongst others), and the continual enforcement efforts (including ensuring welfare in transport) sends the message that the UK is concerned about wildlife conservation and welfare.

And whilst this is largely true, the implications of this approach are that wildlife in the UK are overlooked, as is welfare outside of the transportation context. So, whilst the UK is actively engaging in wildlife conservation and promoting aspects of welfare, management of UK wildlife is under resourced and could be improved.

Importantly, the larger implication of this case study is that more fundamental conversations need to be arranged to discuss core ethical issues regarding the trade and consumption of wildlife.

The content analysis and interviews revealed that consideration as to whether humans are prioritised over wildlife and whether some wildlife are prioritised over others (speciesism), and the welfare of individual non-human animals within the trade and conservation contexts rarely takes place. If the lives of non-human animals and the loss of biodiversity are going to be improved within the Anthropocene, more basic dialogue needs to be had with the range of policy makers, and criminal justice and civil society practitioners working in wildlife conservation that tackles the difficult question regarding exploitation and consumption of wildlife.



The opinions expressed in this policy brief are the author's own and do not reflect the view of the University of Oslo, Department of Criminology and Sociology of Law.

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