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ILLEGAL WILDLIFE TRADE IN SOUTHERN AFRICA AN AWARENESS CURRICULUM FRAMEWORK FOR THE JUDICIARY





White rhino (*Ceratotherium simum*)

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Contents

Acronyms	2
Introduction	3
1. List and summary of organizations, courses, and topics	4
2. Other organizations implementing judicial awareness activities	10
3. Summary of additional resources available	12
4. Training courses focusing on law enforcement	15
5. The wildlife crime cycle	15
6. Curriculum template	16
7. Findings and proposals	19
References	20
Annexure A: Work method	21
Annexure B: Training courses focusing on law enforcement	21



Acronyms

- AWF African Wildlife Foundation
CITES Convention on International Trade in Endangered Species of Wild Fauna and Flora
CCG Center for Conservation and Government
GIZ Deutsche Gesellschaft für Internationale Zusammenarbeit
GLTFCA Greater Limpopo Transfrontier Conservation Area
ICCWC International Consortium on Combating Wildlife Crime
IUCN International Union for Conservation of Nature
IWT Illegal wildlife trade
JTI Judiciary Training Institute
KAZA TFCA Kavango-Zambezi Transfrontier Conservation Area
LEAP Law Enforcement and Anti-Poaching
LWOB Lawyers Without Borders
POCA Prevention of Organized Crime Act
SADC Southern African Development Community
SAJEI South African Judicial Education Institute
TFCA Transfrontier Conservation Area
UNEP United Nations Environment Program
UNODC United Nations Office on Drugs and Crime
USAID United States Agency for International Development
WEN Wildlife Enforcement Network
WJPAT Wildlife Judicial and Prosecutorial Assistance Training
WWF World Wide Fund for Nature (WWF)



Introduction

The consultant was tasked to complete a desk review of illegal wildlife trade (IWT) training materials used by organizations in the Southern African Development Community (SADC) region to raise awareness amongst the judiciary on IWT. The SADC territory encompasses vast tracts of land hosting a many species and it hosts SADC Transfrontier Conservation Areas (TFCA) which include the Kavango-Zambezi, Greater Limpopo, and the Zimbabwe, Malawi-Zambia TFCAs, amongst others. The SADC member States are Angola, Botswana, Comoros, Democratic Republic of Congo, Eswatini, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia, and Zimbabwe.

The methodology applied to conduct the review is set out in Annexure A.

The findings of the report and some proposals are set out on page 18, but the essentials are:

- Care should be taken that, where relevant, judges and magistrates are not trained with law enforcement agencies or prosecuting authorities;
- Not many organizations host the content or tables of content of their training materials on their websites;
- Some organizations refer in their reports to the creation of awareness amongst the judiciary, but in many instances the topics are not listed, and the content is inaccessible online;
- It would be beneficial if an organization could develop a manual containing the material based on the schematic exposition, and in a printable as well as electronic format, that is easily accessible;
- Most organizations that offer awareness programs to the judiciary do not follow a prescribed curriculum; and
- It is proposed that universities that are responsible for the training of future judges be lobbied to include a module on IWT in their law programs.



I. List and summary of organizations, courses, and topics

A list of the organizations that promote awareness amongst the judiciary in the region, the names of their courses, the topics they cover, and a summary of the themes covered by key subject areas are provided in the table below.

The criteria applied for the sequence in which the organizations are listed include:

- Purpose and intended use;
- Relevance;
- Authority;
- Accessibility; and
- Credibility.

USAID VukaNow		
Course	Topic/theme	Summary of the topics/themes covered and links
Illegal wildlife trade and the judicial system. Consisting of the following modules:	Introduction to IWT	The theme introduces the broader societal impacts of wildlife crime at a global level, narrowing it down to specific threats posed by wildlife crime at national level. It also addresses the role of magistrates in addressing the impacts and threats.
	IWT Value Chain	The key drivers and complexities of the global IWT value chain is introduced and then narrowed down to IWT value chains in a southern African context. The factors and processes involved in the larger picture of transnational organized crime are also presented.
	IWT Democracy, Governance and Society	This module discusses the ways in which wildlife crime (WLC) negatively affects broader society. It shows that WLC is more than a conservation concern and has significant negative impacts on nation-states by undermining democracy, society, and governance in a number of ways. Its negative impact on development, livelihoods and economic security, and, security, governance and the rule of law is illustrated. It also discusses and shows the links between WLC and other forms of organized crime and corruption.
	Legislation, Evidence and Forensics	The various international instruments available for addressing IWT and the utility of legislation as an instrument to combat the phenomenon are presented. This is supplemented by illustrations of the importance of evidence and forensics in combating IWC. The role of prosecutors and the judiciary in the context of IWT is also explained.
	Sentencing and Justice	The factors to be considered in sentencing, such as species survival, the negative effects of IWC on the environment and the tourism industry, and the relationship between IWC and organized crime, corruption, and rural poverty are discussed. The utility of prosecuting ancillary crimes when pursuing organized criminals is also explained.

SADC countries that are targeted: All

Link: <https://evukalearn.com/>

Evaluation/comments: To access the training materials, registration is required. The navigation can sometimes be confusing as it is not always clear what is expected from the reader e.g., whether an assessment will be required or not. The content is good, and the website is interactive, but it can be improved by providing clearer instructions to the reader.

UNODC

Course	Topic/theme	Summary of the topics/themes covered and links
Wildlife Crime: A UNODC Education for Justice Initiative (University Module Series). Consisting of the following modules:	Illicit Markets for Wildlife, Forest and Fisheries Products.	This module is an introduction to the causes and characteristics of trafficking in wildlife, forest and fisheries products, the demand and supply that fuel this trade, and the various activities that define it, ranging from poaching to consumption. It outlines the causes, characteristics, and criminology of wildlife, forest, and fisheries crime. The module provides a general understanding of the patterns and dimensions of this crime type, the difficulties of separating legal and illegal trade, and introduces some of the animal species and countries most affected by the illegal trade.
	International Frameworks for Combating IWT	This module introduces international conventions, guidelines, and organizations relevant to preventing and suppressing wildlife trafficking. It examines international law across four areas, including international trade, environmental protection and conservation, animal welfare, and organized crime and corruption. It explains the operation of CITES in some depth, followed by overviews of the Convention on Biological Diversity, the Convention concerning the Protection of the World Cultural and Natural Heritage, the Convention on the Conservation of Migratory Species of Wild Animals, the United Nations Convention against Transnational Organized Crime, and the United Nations Convention against Corruption. The module outlines a selection of “soft law” materials and best practice guidelines relevant to combating wildlife trafficking. It also provides an understanding of the design and practical operation of international frameworks related to IWT and introduces the work of some related international organizations, including INTERPOL and the International Union for the Conservation of Nature (IUCN).
	Criminal Justice Responses to IWT	This module introduces the tools, actors, and agencies that are part of the criminal justice response to IWT in any jurisdiction. The main focus is on the criminalization of the activities constituting, and associated with, wildlife trafficking, on detection methods and forensic procedures, on the work of law enforcement and customs agencies, and on the role of prosecutors and the judiciary in combating wildlife trafficking.

SADC countries that are targeted: Countries are not targeted specifically, but the courses are freely available upon registration.

Links: [Wildlife, Forest & Fisheries Crime Module 1 \(unodc.org\)](http://unodc.org)

[Wildlife, Forest & Fisheries Crime Module 2 \(unodc.org\)](http://unodc.org)

[Wildlife, Forest & Fisheries Crime Module 3 \(unodc.org\)](http://unodc.org)

Evaluation/comments: These courses are available online upon registration. It can also be offered by the Nelson Mandela University, Centre for Law in Action¹ (where the courses are registered as short learning programs), the Open University of Mauritius and the University of Nairobi in partnership with Nelson Mandela University. Organizations aiming to raise awareness will have to work through the content to identify topics of relevance to them. The sites provide the possibility for organizations to build their own courses.

¹ Nelson Mandela University can roll out the programs to Namibia, Mozambique, Tanzania, Madagascar, and Seychelles as it has agreements with tertiary institutions in those countries as well.

South African Judicial Education Institute (SAJET)

Course	Topic/theme	Summary of the topics/themes covered and links
Environmental Crimes and Wildlife Trafficking	Foundations of Environmental Law	<p>The introductory chapter of this part defines environmental crime and contains very brief introductions to the factors that motivate people to commit environmental crimes and its relationship with other crimes. It makes mention of relevant international agreements and the Prevention of Organized Crime Act (POCA).</p> <p>Chapter 2 explains the development of international environmental law and then introduces the South African legislative framework that addresses environmental law and crime.</p>
Consisting of the following parts:	Principal Areas of Environmental Adjudication	<p>In this part, chapter 3 briefly distinguishes between offences relating to natural resources and waste management as categories of environmental crimes. For the most part, it consists of tables detailing the categories of environmental resources (e.g., protected areas, biodiversity, marine living resources etc.), the specific legislation that aims at protecting the resources and tables listing the specific sections, the offences that are created and the penalties, therefore. In some instances references are made to decided cases with links to the headnotes of the cases and the decisions of the courts.</p> <p>Chapter 4 deals with <i>capita selecta</i> (selected species that are trafficked). Each species is preceded by a very brief discussion of its nature and status. It is then followed by the legislation that can be used to protect the species and the penalties that may be imposed. The species are cycads, cheetahs, abalone, pangolins, elephants, rhinos, and lions.</p>
	Procedural Aspects in Adjudication of Environmental Disputes	<p>Chapter 5 concisely discusses trial and evidential matters, including:</p> <ul style="list-style-type: none"> ■ Prosecution of corporations and members of associations; ■ Traps and undercover operations; ■ Electronic evidence; ■ Interception and monitoring of communication; ■ Aspects of chain of evidence; and ■ Jurisdiction in environmental matters. <p>Chapter 6 deals with confiscation orders, sentencing and ancillary orders, but not in much detail. The latter is mainly a quotation of section 34 of the Criminal Procedure Act.</p>
	Additional Matters	<p>The Guide contains the following handy instruments:</p> <ul style="list-style-type: none"> ■ A list of the International Environmental Conventions relevant to South Africa; ■ A schematic exposition of the legislative framework; ■ Extracts from law reports; and ■ Jurisdictional provisions regarding penalties.

SADC countries that are targeted: South Africa

Links: A direct link to the Guide could not be found online.

Evaluation/comments: The Guide is very helpful for members of the judiciary, but it mostly consists of references to sections in legislation that addresses specific problem in environmental law with links to decided cases.

University of Cape Town – Judicial Institute for Africa (JIFA)

Course	Topic/theme	Summary of the topics/themes covered and links
Core Skills for Judicial Officers	Rule of Law, Separation of Powers and Judicial Independence	A component that may be of relevance to the judiciary if adapted to the wildlife crime environment that is included in the JIFA curriculum, is the principle of the Separation of Powers including familiarization with the Commonwealth Latimer House Principles on the accountability of, and the relationship between the three branches of Government at https://thecommonwealth.org/sites/default/files/newsitems/documents/LatimerHousePrinciplesPH7Jul17.pdf

SADC countries that are targeted: Enrolment is open to all against payment

Links: <http://www.jifa.uct.ac.za/>

Evaluation/comments: The content is not accessible, but it may be of value to include Latimer House Principles in training materials that are developed in future.

GIZ, African Wildlife Foundation, Traffic & IUCN

Course	Topic/theme	Summary of the topics/themes covered and links
Wildlife Judicial and Prosecutorial Assistance Trainings (WJPAT) Series Consisting of the following topics:	The State of Poaching and IWT	The WJPAT addresses wildlife crimes in African countries by working with all arms of their criminal justice systems. The Judiciary Training Institute brought together different agencies, including the judiciary to be sensitized on wildlife crimes in Tanzania. The objective was to strengthen the judicial, prosecutorial and investigative sectors in the fight against wildlife crime. ²
	Nature and Prevalence of Wildlife Crimes	
	Dynamics of IWT	
	Introduction to Wildlife Law	
	Overview of Tanzania's Wildlife Policies and Laws	
	Kenyan Experience in use of Other Laws to Strengthen Wildlife Crime Prosecutions	This training appears to have been a once-off exercise in May 2016.
	Analysis of IWC cases in Tanzania and Lessons Learnt	
	Project Wisdom: Combating Poaching and Trafficking of Elephant Ivory and Rhino Horn	
	UNODC Tools to Combat WLC	
	Interagency Collaboration (Uganda case study)	
	Some of the Current Technology to Combat IWC	

SADC countries that are targeted: Botswana, Democratic Republic of the Congo, Mozambique, Rwanda, South Africa, Tanzania, Zambia, Zimbabwe.

Links: <https://www.awf.org/blog/strengthening-africas-criminal-justice-systems-fight-illegal-wildlife-trade>

Evaluation/comments: There is no curriculum, but the proceedings consist of the different topics that were presented and gives an indication of the themes that were addressed. The content of the topics could not be accessed.

² The training also aimed to bring stakeholders together to commence discussions on their roles and contributions towards fighting wildlife crime, the gaps in wildlife enforcement legislation and the weaknesses in investigations and prosecutions.

International Union for Conservation of Nature (IUCN)

Course	Topic/theme	Summary of the topics/themes covered and links
Protected Areas Law Capacity Development	Protected Areas	<p>The course is available in English, French and Spanish. It contains a set of educational tools for teaching and learning about protected areas law and governance. The materials are primarily intended as resources for face-to-face instruction. They are designed for use in a wide variety of settings, including training sessions, workshops, university courses and practitioner seminars. The resources are arranged into 12 interactive modules, which cover key legal aspects of management and governance of protected areas and connected landscapes, systems, and processes in the terrestrial and marine contexts. Each module consists of a course outline and a PowerPoint presentation with detailed notes to presenters.</p>

SADC countries that are targeted: All

Links: PA Law Capacity Development – IUCN

Evaluation/comments: There is no curriculum, but some of the content that may be of value includes basic concepts related to law and protected areas, Understanding the Nature and Relationship Between “Protected Areas”, “Governance” and the “Law”, the Stakeholders and Legal Sources of Authority, an overview of international and regional laws of relevance to protected areas, and an introduction to the concept of transboundary protected areas and the special legal considerations that are relevant to the establishment and management of effective transboundary protected area agreements and legislation.

TRAFFIC

Course	Topic/theme	Summary of the topics/themes covered and links
Illegal Wildlife Trade: Enhancing Responses to Wildlife Crime and Illegal Trade	Awareness Raising on Key Species Affected by Wildlife Crime	<p>TRAFFIC publishes reports on the nature and extent of illegal wildlife trade involving specific species. The approach to motivate, inform, and support enforcement and judicial action to increase the risk for criminals. The following wildlife reports are available:</p> <ul style="list-style-type: none"> ■ Tigers; ■ Pangolins; ■ Rhinos; ■ Elephants; ■ Reptiles and amphibians; ■ Abalone; and ■ Sea cucumbers and seahorses. <p>TRAFFIC specializes in awareness-raising and training within the justice systems of a number of SADC countries – generally, with judges and magistrates, it is awareness-raising only but with prosecutors, both training and awareness-raising is covered.³</p>
	Trafficking Dynamics ⁴	TRAFFIC carried out awareness creation workshops in Angola, using the format of expert presentations and various facilitation activities such as simulation and role-playing etc. The content focused on Trafficking Dynamics, together with the Value of Illegal Wildlife Products and the Impact of IWT on Livelihoods / Economy, but the contents of the program could not be ascertained.
	Value of Illegal Wildlife Products	
	Impact of IWT on Livelihoods and Economies	

SADC countries that are targeted: Angola, Botswana, Mozambique, Namibia, South Africa, Zambia, Zimbabwe

Links: TRAFFIC | Illegal Wildlife Trade

Evaluation/comments: Reports on threats to specific species are readily available. USAID VukaNow also identified the following topics, but details are not available when conducting a desktop review:⁵ The link between IWT and corruption, relevant legislation, and the impact of IWT on biodiversity were also addressed. The TRAFFIC website contains a wealth of information that can be used to raise awareness among members of the judiciary about the seriousness and impacts of wildlife crimes on governance, biodiversity and economies.

³ Telephonic interview with Markus Burgener, Senior Program Coordinator with TRAFFIC.

⁴ Training themes as identified by VukaNow Rapid Gap Analysis (2021) Table 9 and USAID VukaNow (July 2020) Awareness Support for the SADC Judiciary: II.

⁵ USAID VukaNow (July 2020) Awareness Support for the SADC Judiciary: II.

Republic of South Africa. Department of Environmental Affairs

Course	Topic/theme	Summary of the topics/themes covered and links
The Prosecution of Environmental Crime: A Guide for Prosecutors	Sentencing, Forfeiture and Other Orders ⁶	<p>The manual contains the following topics which are relevant for awareness raising amongst the judiciary, albeit in an amended format:</p> <ul style="list-style-type: none"> ■ Phrasing of the penalty provision; ■ Higher maximum penalties for second or subsequent convictions; ■ Increased or a supplementary fine; ■ Issues to be considered in sentencing; ■ Factors to be considered in sentencing; ■ Aims of sentencing; ■ Penalty options; ■ Forfeiture orders; and ■ Orders regarding proceeds of crime, cancellation of permits, the status of the offender, specific actions, the payment of costs, damage, and compensation.

SADC countries that are targeted: South Africa

Links: None. The Guide is not available online

Evaluation/comments: The Environmental Management Inspectorate of the department developed the document, and it has copyright on it. Written permission can be obtained to use the materials, although it is mostly focused on prosecutors.

Lawyers Without Borders (LWOB)

Course	Topic/theme	Summary of the topics/themes covered and links
Enforcement Chain Training	The Kenyan Wildlife Act Criminal Enhancement and Supporting Enforcement (CEASE)	<p>In 2015 LWOB implemented the PROTECT project⁷ to improve the investigation and prosecution of wildlife under the Kenyan Wildlife Act. Trainings relevant for the judiciary covered trials under the Wildlife Act and attendees included judges.</p> <p>In 2017, LWOB implemented the CEASE⁸ project to improve the criminal justice sector in Tanzania. LWOB conducted 19 in-country trainings for 348 wildlife crime stakeholders, including 64 judges and magistrates.</p>

SADC countries that are targeted: Kenya and Tanzania

Links: <https://www.lawyerswithoutborders.org/where-we-work>

Evaluation/comments: LWOB's training materials include country guides, teaching manuals, mock case files, eLearning materials, videos, educational board and card games, posters, and graphic comic books. LWOB also produces laminated Rapid Reference Cards (RRCs) that summarize key statutes, rules, and laws of a specific country. The content is not available online.

UNODC

Course	Topic/theme	Summary of the topics/themes covered and links
Wildlife and Forest Crime Analytic Toolkit	Part III Analyses Prosecutorial and Judicial Capacities to Respond to Wildlife and Forest Crime.	<p>The following aspects are of particular interest:</p> <ul style="list-style-type: none"> ■ Accountability and integrity of the judiciary; ■ International judicial cooperation, including extradition, mutual legal assistance, confiscation of assets, transfer of proceedings and transfer of sentenced persons; ■ Sentencing and sanctions; and ■ Restitution, compensation, and restoration.

SADC countries that are targeted: All countries can use it.

Links: https://cites.org/sites/default/files/eng/resources/pub/Wildlife_Crime_Analytic_Toolkit.pdf

Evaluation/comments: The document is easily accessible and the content can easily be incorporated into awareness-raising exercises.

⁶ Republic of South Africa, Department of Environmental Affairs. The Prosecution of Environmental Crime: A Guide for Prosecutors 2nd Edition: 269.

⁷ Prosecution, Outreach, Trial: Enforcement Chain Training.

⁸ Criminal Enhancement and Supporting Enforcement.

2. Other organizations implementing judicial awareness activities

It appears from reports, press releases and websites, that organizations other than those listed above are also implementing judicial awareness activities. These are listed below. They were included either because they were specifically mentioned in other VukaNow reports as listed in the footnotes, or because they contain aspects that may be used if the proposal is adopted to appoint someone to produce a manual.

GIZ (German Technical Cooperation) Malawi	
Topic	Comment and links
Amendment of the Wildlife Act, Regulations on Protected, Endangered and Listed Species, Sentencing Guidelines and Incoming Mutual Legal Assistance	<p>Judicial training courses could not be found; however, it is noted that a report was released in 2019 by GIZ on the training of magistrates and prosecutors in Malawi. The details of such trainings or workshops are scant online.</p> <p>The judiciary has also been provided with tools to successfully prosecute wildlife crimes, such as sentencing guidelines, incoming Mutual Legal Assistance (MLA) guidelines and a handbook/quick reference guide on the use of legislation in wildlife crime prosecutions. The reference guide serves the investigators, prosecutors, and the judiciary to provide background on IWT and detailed information on the offences across multiple Acts (e.g., Customs and Excise Act, Money Laundering, Proceeds of Serious Crime and Terrorist Financing Act, Financial Crimes Act 2017), which may be applied to wildlife crime.</p> <p>The “Sentencing Guidelines for Wildlife Crimes in Malawi Courts” is a legal tool designed for prosecution and judiciary. These guidelines recap which penalty provisions are applicable according to the species type (according to the Protected, Endangered, Listed Species Regulations, the IUCN red list and CITES appendices); the maximum penalties; the starting point penalty for each category and the mitigating/aggravating factors to consider when sentencing.</p>

Link: <https://www.giz.de/de/downloads/giz2019-en-progress-report-illegal-wildlife.pdf>

Tikki Hywood Foundation Zimbabwe	
Topic	Comment and links
Illegal Wildlife Trade	It appears from the website that training had been done for magistrates, and a handbook for prosecuting wildlife crimes in Zimbabwe was distributed in 2013. The particulars of the training could not be accessed.

Link: <https://www.tikkihywoodfoundation.org/zimbabwe/>

The Lowveld Rhino Trust Zambia and Zimbabwe	
Topic	Comment and links
Illegal Wildlife Trade	Lowveld Rhino Trust was also mentioned as being active in this field, but no training courses or topics are available online.

Wildlife Crime Prevention (Botswana, Zambia) ⁹	
Topic	Comment and links
Illegal Wildlife Trade	Lowveld Rhino Trust was also mentioned as being active in this field, but no training courses or topics are available online.

⁹ Listed in VukaNow Rapid Gap analysis.

SADC Law Enforcement and Anti-Poaching (LEAP) Strategy (March 2015) creating the Wildlife Enforcement Network (WEN) All SADC countries	
Topic	
Seriousness of Wildlife Crimes and Sentencing Guidelines	<p>This is a US Government-led initiative that aims to establish a series of regional WENs that will serve to build wildlife enforcement capacities of member states. The focus will include legal training for the judiciary to ensure that the judiciary knows about the seriousness of wildlife offences and the appropriate sentencing guidelines.</p> <p>The SADC Wildlife Crime Prevention and Coordination Unit will be conducting awareness campaigns amongst judiciary of the seriousness of national, regional, and global wildlife crime. National Wildlife Crime Prevention Task Forces will be responsible for the following aspects that may be relevant for the judiciary:</p> <ul style="list-style-type: none"> ■ The status and trends of IWC, paying particular attention to high value products e.g., ivory, rhino horn, leopard skins, pangolin etc.; ■ Analysis of the nature and impact of corruption; ■ Review the current status of the legal framework related to anti-poaching, including identification of areas where the legislative process can be improved; and ■ Monitor the impact of poaching on national security. <p>According to the LEAP strategy the judiciary must be knowledgeable of the seriousness of wildlife offences and the appropriate sentencing guidelines within five years. A key action for the achievement of this is through promoting participation and feedback between judiciary and wildlife enforcement units, notwithstanding independence of the judiciary.</p> <p>No courses could be found.</p> <p>SADC_LEAP_FINAL DRAFT Revised 31 MARCH 15 Eng.pdf (tfcaportal.org)</p>

3. Summary of additional resources available

Whilst conducting the desktop research, other resources have been identified that can be used fruitfully to either offer judicial awareness training or augment existing training. This information is set out in the table below.

WildlifeDirect in collaboration with the Judicial Training Institute (JTI) Zimbabwe, Malawi, Kenya, and Tanzania	
Topic	Comment and links
Eyes in the Courtroom Project	<p>Since 2013 WildlifeDirect has conducted seven major workshops and training events for law enforcement and judicial officers. The report contributes to reducing wildlife crime in the following ways relevant to this report:</p> <ul style="list-style-type: none"> ■ It improves understanding of the causes of wildlife crime, provides inputs for the design of mitigation measures that reduce the motivation, or necessity, for people to engage in wildlife crime; and ■ It draws attention to the scale of the problem of wildlife crime and makes the case for urgent action to address it. <p>The series of reports review progress towards strengthening the effectiveness of the prosecution and adjudication of wildlife crimes in Kenyan courts. It provides an overview of the process and outcomes of cases brought before Kenyan courts involving offences under legislation for the conservation and sustainable management of wildlife, forests, and marine resources.</p>

Link: <https://wildlifedirect.org/wp-content/uploads/2021/03/WildlifeDirect-4th-Eyes- in-the-Courtroom-Report-2018-2019-1.pdf>

UNODC	
Topic	Comment and links
World Wildlife Crime Report 2020	<p>The report takes stock of the present wildlife crime situation with a focus on illicit trafficking of specific protected species of wild fauna and flora, and provides a broad assessment of the nature and extent of the problem at the global level. It includes a quantitative market assessment and a series of in-depth illicit trade case studies.</p> <p>The report covers topics such as the threat and extent of the trade in the species listed above, where the species are sourced, trafficking patterns, destination markets and trend analysis.</p>

Link: Information on the relevant species is:

- Ivory and rhino horn [WWLC20_Chapter_3_Elephant_and_Rhino.pdf](#) (unodc.org)
- Pangolin scales [WWLC20_Chapter_4_Pangolin.pdf](#) (unodc.org)
- Live reptiles [WWLC20_Chapter_5_Reptiles.pdf](#) (unodc.org)
- Big cats [WWLC20_Chapter_6_Big_Cats.pdf](#) (unodc.org)
- Value chains and illicit financial flows from the trade in ivory and rhino horn [WWLC20_Chapter_8_Value_chains.pdf](#) (unodc.org)

International Consortium on Combating Wildlife Crime (ICCWC)

Topic	Comment and links
Indicator Framework for Combating Wildlife and Forest Crime (2016).	<p>The Indicator Framework is a set of 50 indicators arranged against eight desired outcomes of effective law enforcement to combat wildlife crime. Outcome 7 is “Wildlife crime offenders are appropriately penalized.” It is a self-assessment framework, which is best completed through a collaborative process involving all relevant national law enforcement agencies.</p> <p>Indicator 41 deals with sentencing guidelines. And asks whether there are clearly-defined national guidelines for the sentencing of offenders convicted for wildlife crime. Indicator 42 deals with the extent of awareness of wildlife crime among the judiciary and the appropriateness of the verdicts handed down and indicator 44 asks the judiciary: “Do you apply asset forfeiture and recovery legal provisions to wildlife crime cases?” Indicator 42 is copied as illustration.</p>

42. Judicial awareness (EA)

The extent of awareness of wildlife crime among the judiciary and the appropriateness of the verdicts handed down.
Question: Is the judiciary aware of the serious nature of wildlife crime and does it hand down appropriate verdicts?

Measurement:

0 ○	1 ○	2 ○	3 ○
<p>The judiciary:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Has no awareness of the nature and prevalence of wildlife crime, and the impact and potential profits of wildlife crime. <input type="checkbox"/> Has no awareness of wildlife crime-related charges <input type="checkbox"/> Usually treats wildlife crime as a minor offence <input type="checkbox"/> Does not adhere to sentencing guidelines where they exist 	<p>The judiciary:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Has limited awareness of the nature and prevalence of wildlife crime, and the impact and potential profits of wildlife crime <input type="checkbox"/> Has limited awareness of wildlife crime-related charges <input type="checkbox"/> Hands down verdicts that are sometimes appropriate to the nature and severity of the crime <input type="checkbox"/> Rarely adheres to sentencing guidelines where they exist 	<p>The judiciary:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Has some awareness of the nature and prevalence of wildlife crime, and the impact and potential profits of wildlife crime <input type="checkbox"/> Has some awareness of wildlife crime-related charges <input type="checkbox"/> Hands down verdicts that are usually appropriate to the nature and severity of the crime <input type="checkbox"/> Sometimes adheres to sentencing guidelines where they exist 	<p>The judiciary:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Is aware of the nature and prevalence of wildlife crime, and the impact and potential profits of wildlife crime <input type="checkbox"/> Has a high level of awareness of wildlife crime-related charges <input type="checkbox"/> Hands down verdicts that are appropriate to the nature and severity of the crime, and correspond with relevant laws and other serious crimes <input type="checkbox"/> Routinely adheres to sentencing guidelines where they exist

Link: A9R1qmtor4_dmmq5o_8kk.tmp (unodc.org)

USAID/Center for Conservation and Government ¹⁰	
Topic	Comment and links
Strengthening the Weakest Links Strategies for Improving the Enforcement of Environmental Laws Globally	<p>The report shows that the judiciary's capacity deficit on environmental issues compromises the quality of enforcement performance. In part, this weakness results from the fact that, like prosecutors, judges are responsible for hearing all types of cases, and they receive no special training in environmental law. The outcome of this lack of capacity is predictable – judges often consider environmental crime to be less serious than other forms of crime, fail to convict environmental offenders, and frequently apply penalties that do not compensate for damages when they do convict. While specific environmental courts presided over by judges with specific environmental training might be more effective, such systems rarely exist.</p> <p>The document explains the need for creating judicial awareness and provides brief examples of the role the judiciary can play. It also contains case studies, but not with regard to SADC countries.</p>

Link: Strengthening the Weakest Links: Strategies for Improving the Enforcement of Environmental Laws Globally — Combating Wildlife Trafficking Collaborative Learning Group (biodiversitylinks.org)

International Bank for Reconstruction and Development / The World Bank	
Topic	Comment and links
Illegal Logging, Fishing, and Wildlife Trade: the Costs and how to Combat it.	<p>The publication addresses the illegal logging, fishing and wildlife trade and describes how it depletes the world's natural resources, deprives nations of needed revenues, and undermines key ecosystem services. It sets out how illegal trade undermines international and local commitments to sustainable development, biodiversity conservation and climate change mitigation and adaptation. It discusses the value of natural resources and the economic losses suffered as a result of illegal logging, fishing and wildlife trade, and explains how the shortfall in revenue hinders economic growth in source countries and increases development risks and vulnerabilities beyond national borders. The impacts of systematic corruption and weak governance across the public and private sectors are discussed to show how it enables illegal logging, fishing, and wildlife trade.</p>

Link: <https://openknowledge.worldbank.org/handle/10986/32806>

¹⁰ Akella, A., Cannon, J. Strengthening the weakest links: strategies for improving the enforcement of environmental laws globally. Center for Conservation and Government, Conservation International, (2004).

4. Training courses focusing on law enforcement

There are a number of training courses that are focused on improving the law enforcement and prosecutions parts of the criminal justice process, without any reference to the judiciary. As these have not been required by the terms of reference, some are listed in Annexure B.

5. The wildlife crime cycle

The wildlife crime cycle was developed as a consequence of reading a large number of websites, training materials that have been developed, academic articles, and conference proceedings. It is an attempt to give structure to what is seen as important for members of the judiciary, especially in view of the fact that, apart from the formal law aspects, they do not receive any special training on wildlife crime as part of the tertiary education. It is also based on the author's experience.

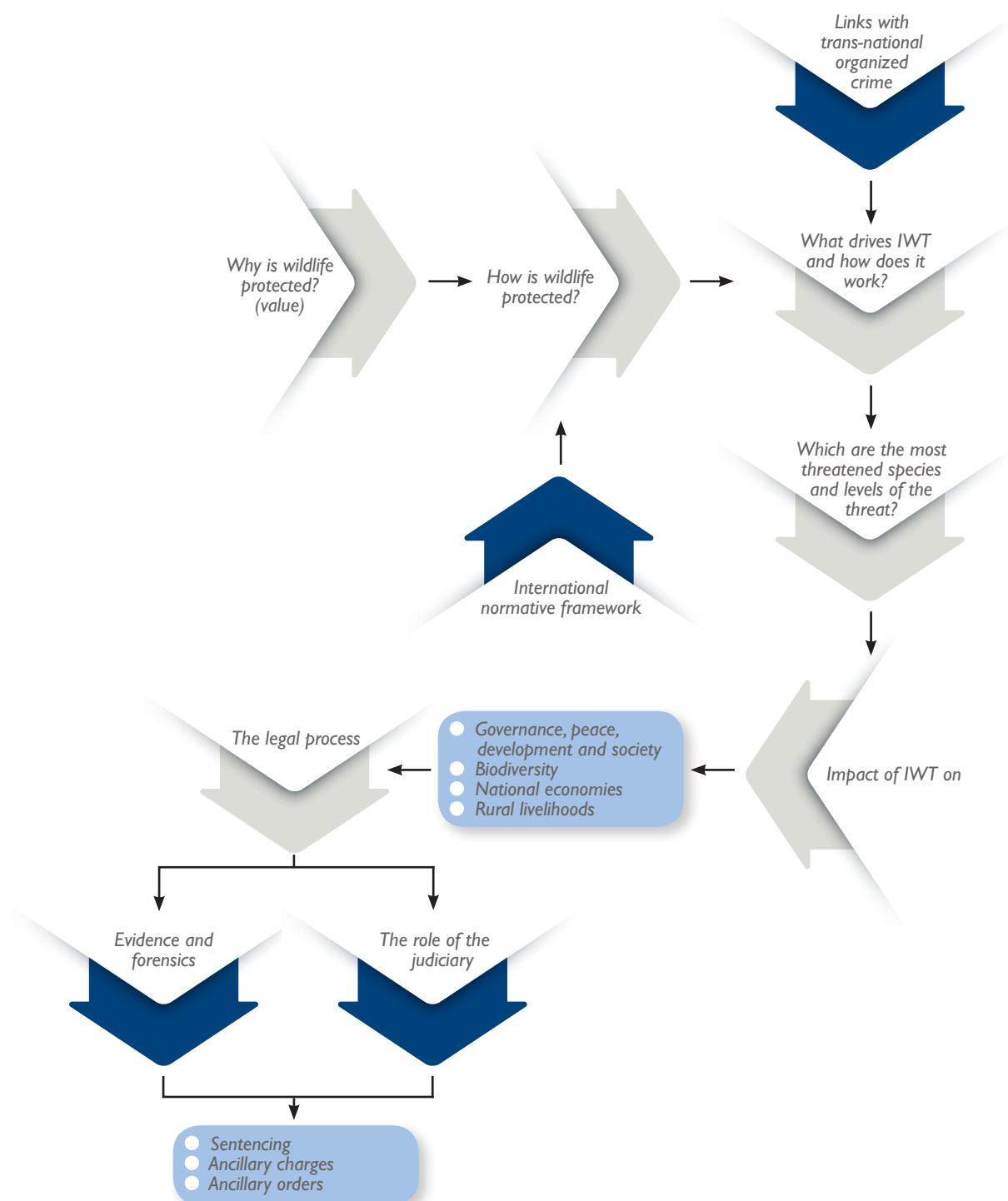


Figure 1: The wildlife crime cycle

6. Curriculum template

Illegal Wildlife Trade:

An awareness curriculum framework for the judiciary	
Target Audience:	Members of the judiciary (Magistrates and Judges)
Course rationale:	Illegal wildlife trade (IWT) poses a serious threat to peace, governance, biodiversity, and the economies of countries, and as a critical link in combating this phenomenon magistrates are required to stay abreast of the impacts of IWT to ensure effective adjudication of wildlife crime cases.
Illicit wildlife value chain:	The illicit wildlife trade encompasses the illegal value chain of wildlife crime including activities such as the illegal killing or harvesting (poaching), smuggling, possessing, and trading of fauna and flora. This definition also includes the various forms of corruption, money laundering and marketing of the illicit goods that are necessary for these transactions to occur – (South Africa's National Integrated Strategy to Combat Wildlife Trafficking).
Course purpose:	The purpose of this curriculum framework is to enable an understanding of the seriousness and impacts of wildlife crime among members of the judiciary to empower them to consider and interpret and apply the law pertaining to wildlife trafficking.
Structure:	<p>The curriculum is divided into subject areas accompanied by a brief summary of the content of each subject area. The curriculum has 6 core subject areas / topics:</p> <ul style="list-style-type: none">■ The reasons for the protection of wildlife;■ The legal mechanisms in place to protect wildlife;■ The drivers of IWT and the IWT value chain;■ The most threatened species and the levels of the threats;■ The impacts of IWT on various aspects; and■ The legal process.
Subject areas	Brief summary of content - source/s
Why is wildlife protected? ¹¹	<ul style="list-style-type: none">■ The threats that wildlife crime poses to the rule of the law;¹²■ The state of poaching and illegal wildlife trade (IWT);¹³■ The impacts of wildlife crime on peace, development, and society;¹⁴ and■ The role of the judiciary in addressing the impacts and threats of wildlife crime.¹⁵
How is wildlife protected?	<ul style="list-style-type: none">■ The national legal framework regulating the protection of wildlife;¹⁶■ The application and scope of major international instruments pertaining to wildlife trafficking, including the main instruments relating to trade, environmental protection and conservation, animal welfare, organized crime, and corruption.¹⁷

¹¹ World Bank <https://openknowledge.worldbank.org/handle/10986/32806>.

¹² USAID/VukaNow – Introduction to IWT and IWT Democracy, Governance and Society <https://evukalearn.com/>

¹³ USAID/VukaNow – IWT Democracy, Governance and Society <https://evukalearn.com/> and GIZ, AWF, Traffic & IUCN Wildlife Judicial and Prosecutorial Assistance Trainings (WJPAT) Series <https://www.awf.org/blog/strengthening-africas-criminal-justice-systems-fight-illegal-wildlife-trade>. The World Bank (2019) <https://openknowledge.worldbank.org/handle/10986/32806>.

¹⁴ USAID/VukaNow – Introduction to IWT and IWT Democracy, Governance and Society <https://evukalearn.com/>

¹⁵ USAID/VukaNow – Introduction to IWT <https://evukalearn.com/>. UNODC Wildlife and Forest Crime Analytic Toolkit https://cites.org/sites/default/files/eng/resources/pub/Wildlife_Crime_Analytic_Toolkit.pdf. ICCWC_A9R1qmto4_dmmq5o_8kk.tmp (unodc.org). CCG Strengthening the Weakest Links: Strategies for Improving the Enforcement of Environmental Laws Globally — Combating Wildlife Trafficking Collaborative Learning Group (biodiversitylinks.org).

¹⁶ Each country will have to develop materials setting out its legal framework. An example is the framework developed by SAJEL, but unfortunately it is not available online.

¹⁷ UNODC Wildlife Crime: International Frameworks for Combating IWT. **Wildlife, Forest & Fisheries Crime Module 2** (unodc.org). USAID/VukaNow – Legislation, evidence and forensics <https://evukalearn.com/>. IUCN Protected Areas Law Capacity Development. **PA Law Capacity Development | IUCN**.

¹⁸ USAID/VukaNow – IWT Value chain <https://evukalearn.com/>. UNODC Wildlife Crime: Illicit Markets for Wildlife, Forest and Fisheries Products Wildlife, Forest & Fisheries Crime Module 1 (unodc.org) **Wildlife, Forest & Fisheries Crime Module 1** (unodc.org), UNODC World Wildlife Crime Report 2020 value chains and illicit financial flows from the trade in ivory and rhino horn **WWLC20_Chapter_8_Value_chains.pdf** (unodc.org).

¹⁹ USAID/VukaNow – IWT Value chain and IWT Democracy, Governance and Society <https://evukalearn.com/>.

What drives IWT and how does it work?	<ul style="list-style-type: none"> ■ The key drivers and complexities of the IWT value chain;¹⁸ and ■ The links between wildlife crime and transnational organized crime.¹⁹
Which are the most threatened species and what are the levels of the threat?	<ul style="list-style-type: none"> ■ A selection of species that are threatened by wildlife crime and the specific risks to which they are exposed, including: ■ Rhinos;²⁰ ■ Elephants;²¹ ■ Cheetahs;²² ■ Reptiles and amphibians;²³ ■ Pangolins;²⁴ ■ Lions;²⁵ and ■ Abalone and other marine living resources.²⁶
What are the impacts of IWT?	<ul style="list-style-type: none"> ■ The impact of IWT on the following aspects:²⁷ ■ Governance, peace, development, and society; ■ Biodiversity; ■ National economies;²⁸ and ■ Rural livelihoods.
The legal process	<ul style="list-style-type: none"> ■ Evidential and forensic aspects relevant to the judiciary;²⁹ ■ The role of the judiciary in:³⁰ <ul style="list-style-type: none"> a) Addressing the impacts and threats of IWC;³¹ b) Sentencing;³² c) Ancillary charges; d) Ancillary orders;³³ and ■ International judicial cooperation including extradition and mutual legal assistance (MLA), with a focus on incoming MLA.

Skills to be developed through this course:

To enable members of the judiciary to:

- Appreciate the value of wildlife and the threats posed by IWT;
- Understand the national and international frameworks aimed at protecting wildlife;
- Recognize the drivers of IWT and the way it operates;
- Understand the links between IWC and international organized crime syndicates;
- Identify the species most threatened by IWC and the levels of the threats against those species;
- Understand the impact of IWT on governance, peace, development and society, biodiversity, national economies, and rural livelihoods; and
- Impose appropriate penalties.

²⁰ African rhino conservation (traffic.org), UNODC World Wildlife Crime Report 2020 WWLC20_Chapter_3_Elephant_and_Rhino.pdf (unodc.org).

²¹ African elephant conservation (traffic.org), UNODC World Wildlife Crime Report 2020 WWLC20_Chapter_3_Elephant_and_Rhino.pdf (unodc.org).

²² Leopards - Species we work with at TRAFFIC. UNODC World Wildlife Crime Report 2020 WWLC20_Chapter_6_Big_Cats.pdf (unodc.org).

²³ Reptiles and amphibians - Species we work with at TRAFFIC. UNODC World Wildlife Crime Report 2020 WWLC20_Chapter_5_Reptiles.pdf (unodc.org).

²⁴ Pangolins - Species we work with at TRAFFIC, UNODC World Wildlife Crime Report 2020 WWLC20_Chapter_4_Pangolin.pdf (unodc.org).

²⁵ African Lion Trade - An assessment of trade mortalities and anthropogenic threats facing lions in Tanzania and Mozambique - Wildlife Trade Report from TRAFFIC. WWLC20_Chapter_6_Big_Cats.pdf (unodc.org)

²⁶ <https://www.traffic.org/publications/reports/empty-shells/> and Other Aquatic species - Species we work with at TRAFFIC; Sharks and Rays - Species we work with at TRAFFIC

²⁷ TRAFFIC Illegal wildlife trade. TRAFFIC | Illegal Wildlife Trade. USAID/VukaNow – Introduction to IWT and IWT Democracy, Governance and Society <https://evukalearn.com/>.

²⁸ The World Bank (2019) <https://openknowledge.worldbank.org/handle/10986/32806>.

²⁹ USAID/VukaNow – Legislation, evidence and forensics <https://evukalearn.com/>.

³⁰ Republic of South Africa. Department of Environmental Affairs. The Prosecution of Environmental Crime: A Guide for Prosecutors (not available online).

³¹ UNODC Wildlife Crime: Criminal justice responses to IWT. Wildlife, Forest & Fisheries Crime Module 3 (unodc.org).

³² USAID/VukaNow – Sentencing and justice <https://evukalearn.com/>. UNODC Wildlife and Forest Crime Analytic Toolkit https://cites.org/sites/default/files/eng/resources/pub/Wildlife_Crime_Analytic_Toolkit.pdf.

USAID/VukaNow – Legislation, evidence and forensics <https://evukalearn.com/>.

³³ UNODC Wildlife and Forest Crime Analytic Toolkit https://cites.org/sites/default/files/eng/resources/pub/Wildlife_Crime_Analytic_Toolkit.pdf.

Delivery and teaching strategy:

Before course attendees participate in their own learning, they will be provided with an opportunity to demonstrate their level of knowledge through a pre-course assessment. A hybrid³⁴ teaching and learning approach can be adopted for this course, or the course can be offered fully online. Teaching strategies that may be adopted on the course include:

- Lecturing;
- Virtual online classroom using a Learner Management System;
- Online learning; and
- Case studies.

Online learning refers to the use of education tools that exist on the internet to help teach. Blended learning is the practice of using multiple teaching strategies in a single class.

Course structure:

The module will be based on an adaptive learning pathway or model where each activity is supported by automated assessment opportunities. Each assessment will need to be completed successfully to move on to the next activity.

The following structure is suggested for the course

- Introduction and welcome to the course, citing the broader purpose and outcomes of the course;
- Overview of the modules, alluding to the structure and how the course will unfold:
 - The reasons for the protections of wildlife;
 - The legal mechanisms in place to protect wildlife;
 - The drivers of IWT and the IWT value chain;
 - The most threatened species and the levels of the threats;
 - The impacts of IWT on various aspects; and
 - The legal process.
- The learning outcomes of each module are introduced, including how each will be achieved;
- Links to additional resources;
- Work through each module and associated outcomes, as introduced;
- Follow each module or part of a module with an assessment opportunity;
- Conclusion;
- A summary of the key concepts;
- Summative assessment opportunity upon completion of all the modules.

Verification method:

The verification method tells administrators and colleagues, how success is measured. Two methods are suggested, namely formative assessments and summative assessments.

The formative assessment: Individual online assessment activities with automated marking and feedback are linked to the teaching and delivery strategies discussed above. There are no limits to the number of attempts that can be made, as the purpose of the formative assessment opportunities is to ascertain the attendees' level of understanding and learning.

Formative assessment opportunities include:³⁵

- Online quizzes;
- Presentations (if contact sessions are offered); and
- Group activities.

The summative assessment: A summative assessment opportunity at the end of the module ascertains what an attendee has learned and is more rigid when it comes to one's options, as objective criteria are used to assess.

Summative assessment opportunities may include:

- Online summative electronic assessment;
- Formal examinations;
- Demonstrations; and
- Case evaluation (e.g., comparing sentences imposed with the gravity of the offense, consistency etc.).

Course evaluation

How will the course, attendees' learning experience, teaching, content, and facilitator be evaluated?

³⁴ Blended means that the majority of the program would be face to face but that it is supported with online activities. Hybrid is more open. It can be entirely online or face-to-face - some can do it online and others can do it face-to-face. Or it can be online and face-to-face at the same time using video conferencing.

³⁵ It all depends on the requirements of the client and the mode of offering. If it is contact, presentations and group activities can be accommodated.

7. Findings and proposals

The review shows that many organizations use the term “enforcement agency” to refer not only to detection agencies and investigators but also to prosecutorial services and the judiciary, namely, all the agencies involved in the enforcement chain. This sometimes makes it difficult to determine whether awareness-raising was conducted for members of the judiciary in the narrow sense (magistrates and/or judges alone) or in the wider sense (together with law enforcement and/or prosecuting authorities). In a southern African context, the “judiciary” is widely understood to refer to the functionaries who perform the adjudication function in the (mostly) adversarial (as opposed to inquisitorial) criminal justice system. In those countries with a common law “tradition” this refers to magistrates or judges who act as “referees” in cases between the prosecuting authority who acts on behalf of the State, and the defense (in person or represented) who acts on behalf of the accused person. Before a case gets to court, the accused is normally arrested by law enforcement agencies, which may be national police services or specialized agencies protecting wildlife. The doctrine of separation of powers, which applies widely in southern Africa, precludes magistrates and judges from being actively involved in the law enforcement aspect, including prosecution. In South Africa, for example, it would be frowned upon if members of the judiciary were to share a training or awareness session with law enforcement agencies or the prosecuting authority.

Not many organizations host the content or tables of content of their training materials on their websites, which makes it difficult to review and evaluate it. It will, for example, be difficult for prospective organizations to evaluate the suitability of the eVukaLearn training materials as registration is required to access the modules. In order to be able to evaluate the content for suitability, the modules must be completed.

Some organizations refer in their reports to the creation of awareness amongst the judiciary, but in many instances the topics are not listed, and the content is inaccessible online. This defeats the purpose of the review to an extent.

It would benefit the battle against illegal wildlife trade if an organization could develop a manual containing the material based on the schematic exposition and in a printable as well as electronic format that is easily accessible. There is a magnitude of material available, but a complete listing is beyond the scope of this project.

By far, most organizations that offer awareness programs to the judiciary, do not follow a prescribed curriculum.

Some noble intentions are expressed in a number of documents such as the SADC LEAP Strategy and the GiZ Illegal Wildlife Trade Progress Report 2015-18, but it is difficult to establish whether the recommendations have been followed through.

It has been found that “... the judiciary’s capacity deficit on environmental issues compromises the quality of enforcement performance. In part, this weakness results from the fact that, like prosecutors, judges are responsible for hearing all types of cases, and they receive no special training in environmental law. This issue may even be more pronounced among the members of the judiciary than among prosecutors.”³⁶ It is proposed that universities that are responsible for the training of future judges be lobbied to include a module on IWT in their law programs.

³⁶ CCG Report *Strengthening the Weakest Links: Strategies for Improving the Enforcement of Environmental Laws Globally — Combating Wildlife Trafficking Collaborative Learning Group (biodiversitylinks.org)* (accessed 29 October 2021): 10.

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Annexure A

Work method

A desktop review was undertaken with a view to develop a curriculum framework that can be used to raise awareness among members of the judiciary about the seriousness and impacts of wildlife crimes. The review was undertaken to collate existing content developed by different organizations that are raising awareness about illegal wildlife trade in the region and to consolidate it into a comprehensive framework which can then be shared by VukaNow and used by stakeholders and partners. The instruction was that the draft curriculum must be informed by:³⁷

- A list and a summary of the IWT topics used in the region to raise awareness;
- A list of organizations that are implementing judicial awareness activities by topic; and
- A summary of the resource materials available including the links.

Once the information that is to inform the draft curriculum was collated, a schematic exposition of the wildlife crime cycle was designed. The main phases/topics of the cycle inform the principal subject areas of the curriculum. Brief summaries of the content of each subject area are provided, together with indications of where the content can be sourced. If not indicated, content will have to be developed.

The topics in the tables below were identified by conducting secondary research, also known as desktop research, which is a research method that involves using already existing information that is summarized and collated.³⁸ The information were obtained from materials published in reports, presentations and similar documents that are available on websites. Other data sources were government agencies, non-governmental organizations, tertiary institutions, and commercial information sources such as newspapers.

³⁷ The principal duties and responsibilities of the consultant as well as the deliverables due in terms of the agreement are set out in Annexure A.

³⁸ <https://www.questionpro.com/blog/secondary-research/> (accessed 13 October 2021).

Annexure B

Training courses focusing on law enforcement

Gondwana Conservation Foundation Training Course on Wildlife Crime Scene Investigation.

<https://www.gondwanacf.org/training-course-wildlife-crime-scene-investigation/>

Victoria Falls Wildlife Trust training focuses on the training of rangers and investigators regionally to improve wildlife crime scene investigations, including a course for first responding rangers to assess wildlife mortalities and to determine potential cause of death.

<https://vicfallswildlifetrust.org/projects/wildlife-forensics/>

Lilongwe Wildlife Trust is rolling out a program on issues affecting selected communities, with particular emphasis on human-wildlife conflict, wildlife crime and wildlife welfare and conservation in Malawi. No specific modules could be traced on the website.

<https://www.lilongzewildlife.org/programmes/wildlife-research/illegal-wildlife-trade-assessment/>

Wildlife Crime Prevention (WCP) Project and the Wildlife Criminal Justice (WCJ) Program

supports the Zambian Prosecutions Authority in wildlife crime prosecutions primarily by following and assisting with high profile wildlife criminal cases. The WCJ program provides technical and logistical assistance where needed to wildlife crime cases. Judicial engagement in wildlife crime prosecutions is also encouraged through various meetings with Zambia's Judiciary.

https://www.wildlifecrimeprevention.com/index.php?option=com_sppagebuilder&view=page&id=68

The David Shepherd Wildlife Foundation focuses on the training of rangers in Zimbabwe, Zambia and Namibia, but the capacity building initiatives are not shown on their website.

<https://davidshepherd.org/our-impact/fighting-wildlife-crime/law-enforcement/>

Royal United Services Institute (RUSI) Following the Money II: Capacity-Building to

Combat Illegal Wildlife Trade in East and Southern Africa. This project delivered cross-sector capacity-building on disrupting wildlife-linked illicit financial flows in East and southern Africa. Resources include workshops, the delivery of legally-tailored **Financial Intelligence Handbooks** for Malawi, Mozambique, Zambia, Tanzania, Kenya and Uganda, as well as an **e-learning video**. The resource is composed of the Environmental Investigation Agency's original footage of wildlife seizures, and law-enforcement activity and images.

<https://rusi.org/explore-our-research/projects/following-the-money-ii-capacity-building-to-combat-illegal-wildlife-trade-in-east-and-southern-africa#aims-and-objectives>

³⁹ Malisa, A. L., P. Gwakisa, S. Balthazary, S. K. Wasser, N. M. Mutayoba. 2006. The potential of mitochondrial DNA markers and polymerase chain reaction-restriction fragment length polymorphism for domestic and wild species identification. African Journal of Biotechnology 5: 1593-1599.