



European Union Action to
Fight Environmental Crime

Networks and NGOs Relevant to Fighting Environmental Crime

Work package 2 on “Instruments, actors, and institutions”



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ABSTRACT

Non-legal actors play an increasingly significant role in combating environmental crime through a variety of advocacy and enforcement activities. The two main non-legal actors are networks and NGOs. This report identifies some significant networks and NGOs currently active in the field and highlights the particular skills and capacities of non-legal actors in the enforcement of environmental law and advocacy on environmental crime issues. While the behaviour of networks and NGOs is highly diverse, the examples highlight their unique ability to improve cooperation between different types of actors (national authorities, international organizations and civil society) at multiple levels (national, EU and international). The creation of environmental crime networks has fostered intense contact between professionals and practitioners on the operational level, which has been effective in breaking down some of the existing barriers that inhibit inter-agency cooperation, and improved enforcement at different governmental levels. NGOs have been integral in investigating environmental crimes and in presenting information to law enforcement authorities to bring about prosecution in specific cases. NGOs have also become active as facilitators in training operations concerning transnational environmental crime, particularly wildlife crime. It becomes clear that the active engagement of networks and NGOs is contributing to the development of new cooperative enforcement and security structures that are cross-sectoral and multi-level orientated.

Table of Contents

- 1 Introduction 8
- 2 Networks 8
 - 2.1.1 Networks as Actors in International Relations 8
 - 2.1.2 The Role of Networks in Environmental Crime 11
 - 2.1.3 Evaluation of Environmental Networks 15
- 3 NGOs 17
 - 3.1.1 NGOs as Actors in International Relations 17
 - 3.1.2 The Role of NGOs in Fighting Environmental Crime 20
- 4 Summary 25
- 5 References 27



List of Tables

Table 1: Differentiation of environmental NGOs by Level of Operation..... 18

List of Boxes


Box 1: The Importance of Information and Communication Technologies for Networks 15

Box 2: The case of IMPEL..... 17

Box 3: The case of 'Ndrangheta..... 23

List of Abbreviations

ARREST	Asia's Regional Response to Endangered Species Trafficking
CCPCJ	UN Commission on Crime Prevention and Criminal Justice
DETECT	Detection of Environmental Crime Training
DONGO	Donor Organized Non-Governmental Organization
DTRT	Doing the Right Things
EIA	Environmental Investigation Agency
ENEA	Agenzia Nazionale per le Nuove Tecnologie, l'Energia e lo Sviluppo Economico Sostenibile
ENGO	Environmental Non-Governmental Organization
ENPE	European Network of Prosecutors for the Environment
EnviCrimeNet	European Network for Environmental Crime
EUFJE	European Union Forum of Judges for the Environment
GONGO	Government-Operated Non-Governmental Organization
IACP	International Association of Chiefs of Police
IEA	Environmental Investigation Agency
IFAW	International Fund for Animal Welfare
IMPEL	European Network for the Implementation and Enforcement of Environmental Law
INECE	International Network for Environmental Compliance and Enforcement
INGO	International Non-Governmental Organization
IRI	IMPEL Review Initiative
MANGO	Market Advocacy Non-Governmental Organization
MoU	Memorandum of Understanding
NGO	Non-Governmental Organization
NNGO	Northern Non-Governmental Organization
PANGO	Party Non-Governmental Organization
PROTECT	Protected-area Operational and Tactical Environmental Conservation Training
RMCEI	Recommendation of the European Parliament and of the Council (2001/331/EC) Providing for Minimum Criteria for Environmental Inspections
RSPCA	Royal Society for the Prevention and Cruelty to Animals
SNGO	Southern Non-Governmental Organization



TRAFFIC	Wildlife Trade Monitoring Network
WSR	European Waste Shipment Regulation (EC) N° 1013/2006)
WWF	World Wildlife Fund

1 Introduction

NGOs, networks and global corporations are increasingly active actors in international relations, shaping norms and policy decisions both at the national and global level. Their increased influence has been facilitated, in part, by globalization, increased economic interdependence and technological innovation which have changed the landscape of international relations and state behavior. Despite the increasing presence and influence of non-state actors, the state is not disappearing, it is rather disaggregating and engaging in different kinds of cooperation. The line of international cooperation is supposed to have shifted from traditional international organizations and treaties towards transgovernmental networks.¹

NGOs as well as transgovernmental networks are important actors in international relations and therefore also relevant in the context of environmental crime. In the following section, environmental enforcement networks on the international and European level are introduced and examples of their role in combating environmental crime are presented. In the second section, NGOs and their associated role in international issues will be described and the specific role of NGOs in fighting environmental crime will be illustrated through several short case study examples.

2 Networks

2.1.1 Networks as Actors in International Relations

The definition and understanding of the term “network” varies considerably between disciplines of political science, computer science, neurobiology and so forth, and scientific literature offers a vast number of approaches to categorize networks. It is therefore necessary to narrow down the scope to the kind of networks that are important in the context of environmental crime at the international and European level. In the context of political science, a policy network is defined as a set of relationships which are non-hierarchical and interdependent, linking actors who share common interests and exchange resources to pursue these interests, acknowledging cooperation as the best way to achieve common goals.² The focus here is on transgovernmental networks – transgovernmental in the sense that they involve domestic officials or sub-units of national governments of different countries directly interacting with each other.³

Much of the present-day transnational cooperation does not occur in the form of state-to-state-negotiations, but is instead between specialized agencies - mostly of governments, legislatures, executives and courts - as a form of agency-to-agency-cooperation. These transgovernmental networks involve specialized officials directly interacting with their counterparts in other countries, their cooperation being

¹ Kal Raustiala, “The Architecture of International Cooperation: Transgovernmental Networks and the Future of International Law,” *Virginia Journal of International Law* 43, no. 1 (2002).

² This basic definition is taken from Tanja A. Börzel, “Organizing Babylon – On the Different Conceptions of Policy Networks,” *Public Administration* 76 (1998): 253–73. The article also provides a literature review of different conceptions and definitions of policy networks.

³ Burkard Eberlein and Abraham L. Newman, “Escaping the International Governance Dilemma? Incorporated Transgovernmental Networks in the European Union,” *Governance: An International Journal of Policy, Administration, and Institutions* 21, no. 1 (2008): 31.

based on loosely structured peer-to-peer ties and regular interaction. They share information, ideas, resources and policies.⁴

In general, a distinction can be made between networks and NGOs. Networks are dealt with here as transgovernmental, whereas NGOs are by definition non-governmental. However, there are also hybrid organizations which are composed of governmental actors but which also include NGOs, academic or business members.

Environmental Enforcement Networks

In parallel to the growing importance of environmental issues came the development of formal and informal environmental networks to support international, national and regional institutions in implementing and enforcing environmental laws and regulations.⁵ These networks, both with international and regional scope, have become important actors in the field of environmental crime. Due to the fact that environmental crimes often affect more than one country and involve perpetrators moving across and between national borders, cooperation between the different national authorities and enforcement agencies is of vital importance as is transnational cooperation between the authorities and agencies of different countries and governance levels.⁶

The main goal of these environmental enforcement networks is to facilitate cooperation and promote the effective implementation and enforcement of environmental law by sharing information and experiences between their members, building relationships and contacts across jurisdictions, raising awareness, improving environmental compliance and developing best practices and procedures.⁷

Orientation and Level of Operation

Although the networks generally share the same goal of facilitating cooperation, they differ both in geographical scope and membership.

The broadest environmental enforcement network both concerning geographical scope as well as members is the **International Network for Environmental Compliance and Enforcement (INECE)**. The global network was established in 1989 and is composed of a wide range of members concerned with environmental enforcement. Members include environmental regulators, investigators, prosecutors, judges and officials from customs, but also employees of international environmental and development organizations, non-governmental organizations, academia, the media, and business. INECE is therefore a hybrid organization, as it is transgovernmental but also includes NGOs as members. According to its Strategic Plan 2012-2017⁸, INECE aims at improving enforcement and compliance by facilitating cooperation, strengthening capacity throughout the regulatory cycle to implement environmental requirements and secure compliance. INECE also has the objective of raising awareness of the importance of environmental compliance and enforcement to sustainable development.

⁴ Raustiala, "The Architecture of International Cooperation: Transgovernmental Networks and the Future of International Law."

⁵ For a review of enforcement networks globally see Andrew Farmer, "Networking," in *Handbook of Environmental Protection and Enforcement: Principles and Practice* (London: Earthscan, 2007), 249–62.

⁶ Donald Kaniaru, "The Role of Institutions and Networks in Environmental Enforcement" (presented at the INECE 6th International Conference on Environmental Compliance and Enforcement, Costa Rica: INECE, 2002), 51–55.

⁷ Grant William Pink, "Environmental Enforcement Networks: A Qualitative Analysis" (Charles Sturt University, 2010).

⁸ "INECE Strategic Plan," accessed December 16, 2013, <http://inece.org/StrategicPlan2012.pdf>.

Another international network is the **International Association of Chiefs of Police (IACP)**, founded in 1893 in Chicago for the purpose of returning criminals who had fled agency jurisdictions in which they were wanted. The association has grown and expanded internationally since then and includes now police officers from 100 countries. The mission of the IACP is to advance professional police services, promote enhanced administrative, technical, and operational police practices, foster cooperation and the exchange of information and experience among police leaders and police organizations throughout the world. The IACP has a designated environmental crime committee, which develops programs aimed at raising the awareness of law enforcement executives regarding crime and the environment and recommends policies, service programs, and training curricula.⁹

On the level of the European Union, four transgovernmental networks have been established in the last decade, each focusing on a different group of actors concerned with environmental crime. The **European Network for the Implementation and Enforcement of Environmental Law (IMPEL)** started as an informal network for environmental ministries and agencies of EU members, acceding or candidate states; it was transformed to an international non-profit association in 2008. In the statutes, IMPEL lays down its main objectives.¹⁰ IMPEL sees its role in creating an impetus in the EU for ensuring the effective application of environmental legislation, promoting the exchange of information and experience between environmental authorities and promoting a mutual understanding of the common characteristics and differences of national regulatory systems. The network also works on identifying and developing best practices, producing guidance, tools and common standards to contribute to improvements and greater consistency in approach with regard to inspection, permitting, monitoring, reporting and enforcement of environmental law. IMPEL also gives feedback and advice regarding the practicability and enforceability of new and existing EC environmental law to the European Commission, based on information and experience from practitioners, and also explores innovative regulatory and non-regulatory instruments as alternatives for, or complementary to, existing regulation.

The **European Network for Environmental Crime (EnviCrimeNet)** was established in 2011 as a forum for investigation services and authorities responsible for fighting environmental crime as well as for environmental prosecutors or their networks. EnviCrimeNet aims at connecting police officers and other crime fighters that can learn from each other and exchange experiences in fighting environmental crime. As an informal network, EnviCrimeNet is facilitated by Europol and also acts as their secretariat and supports the presidency and steering group.¹¹ Members of the network participate in investigations of several forms of environmental crime, including the illegal import and export of waste products, smuggling of protected animals and plants, forgery of transport documents pertaining to waste products, protected animals and plants and in general waste-related crime. The network aims at improving the results of the fight against environmental crime by awareness raising in the member states at the strategic level, sharing of expertise, establishing risk assessments that are exchanged among the members, learning from one another on risk assessment and intervention strategies, establishing tactical analyses and joint investigations, exchanging investigation methods and information prior to the operational phase, and creating training possibilities in cooperation with the European Police College (Cepol).¹²

The **European Union Forum of Judges for the Environment (EUFJE)** is a network of European judges for environmental issues, established in 2004. In the bylaws it is stated that the purpose of the association is to promote, in the perspective of sustainable development, the implementation of national, European and international environmental law. This is done by sharing experience on judicial training, fostering

⁹ "International Association of Chiefs of Police (IACP)," accessed June 11, 2014, <http://www.theiacp.org/>.

¹⁰ "IMPEL-Statutes," accessed December 16, 2013, <http://impel.eu/wp-content/uploads/2013/02/IMPEL-Statute-web-version-06-Dec-2012.pdf>.

¹¹ "European Network for Environmental Crime (ENVICRIMENET)," *Basel Convention*, accessed June 11, 2014, <http://www.basel.int/Default.aspx?tabid=2939>.

¹² "EnviCrimeNet," accessed December 16, 2013, <http://envicrimenet.eu/EN/>.

knowledge of environmental law among judges, sharing experience and contributing to better implementation and enforcement of environmental law. EUFJE initiates studies, organizes conferences and promotes contacts and exchanges of information between its members and EU authorities. It is also stated that the association shall set up a database with relevant decisions, advice and studies by its members and reports and conclusions produced during the colloquiums of the association.¹³

The **European Network of Prosecutors for the Environment (ENPE)** is a network of prosecutors dealing with environmental criminal cases established in 2012 and aims to help practitioners connect and share experiences and data on environmental crime in order to identify crucial issues linked to the environment and human health.¹⁴

EUROJUST is an agency of the European Union dealing with judicial cooperation in criminal matters and its members include judges, police officers and prosecutors from the different member countries. EUROJUST was formed as a decision of the European Council and while it still qualifies as a network, it was for this reason, covered in the section of this report dealing with actors and institutions mentioned in legal texts.

Funding and Legal Structure

One of the benefits of these types of networks according to members is their perceived informal character.¹⁵ Without formal governance or meeting structures, members meet voluntarily to improve their work in a specific field on their own initiation. Some of the networks mentioned were formed as international non-profit associations, for example IMPEL and EUFJE, while others are only informal agreements between the members themselves and serve more as a forum for the exchange of information, for example ENPE.

Some of the networks are funded exclusively by membership fees and voluntary contributions while others receive funding from governments or the European Union authorities. Indeed, a key reason for the transformation of IMPEL from an informal to a formal network was so it could apply for and receive, EU funds. INECE for example is funded by the US and Dutch environmental agencies and receives contributions from the World Bank, UNEP, the EU Commission and several governments. The members of EnviCrimeNet, on the other hand, fund their own costs and expenses.

2.1.2 The Role of Networks in Environmental Crime

It's common for offences against the environment to affect more than one country and environmental crime is often transnational. In particular, perpetrators of environmental crime often take advantage of the differences between legislatures and competences in different countries thereby taking advantage of loopholes in international law. To combat transnational crime effectively, investigation and enforcement agencies recognize the need for close cooperate and sharing of information and have been the impetus for the creation of networks.¹⁶ Increasingly however, judges and prosecutors, whose field of work is basically

¹³ "Bylaws - EUFJE, EU Forum of Judges for the Environment," accessed December 16, 2013, <http://www.eufje.org/EN/presentation/bylaws>.

¹⁴ "European Network of Prosecutors for the Environment (ENPE)," *Basel Convention*, accessed December 16, 2013, <http://www.basel.int/Default.aspx?tabid=2940>.

¹⁵ "Organisation | IMPEL," accessed February 5, 2014, <http://impel.eu/about/organisation/#organisation>.

¹⁶ Toine Spapens, "Cross-Border Police Cooperation in Tackling Environmental Crime" (presented at the 9th International Conference on Environmental Compliance and Enforcement, Canada, 2011), 237.

restricted to their respective national law, have also started to form networks to share experiences and information.¹⁷

The activities and objectives of most of the considered environmental networks are aimed at five general goals: The facilitation of cooperation and contacts, the improvement of operational aspects, exerting influence on policy decisions, the development of best practices and guidance and in general the sharing of information and experiences.

Cooperation and Contacts

One of the main aims of environmental enforcement networks is facilitating cooperation among enforcement professionals. The members see the benefit of networks in the establishment and intensification of contacts between professionals and practitioners on the strategic, technical and operational level, on the EU level through the European networks and also on the international level through INECE. These contacts also help to break down barriers that exist and inhibit inter-agency cooperation, an identified barrier to effective enforcement of transnational environmental crime. Network members communicated that personal relationships established at network events improved cooperation and efficient work across agencies both nationally and internationally.¹⁸

A precondition for successful cooperation through networks is trust among the participants, because it is only through the establishment of some level of trust that participants will share and exchange information. This trust is said to be enhanced by professional homogeneity, which also helps facilitate effective communication within the network.¹⁹

The direct contact, informality and confidentiality between national officials and administrators at the sub-state level are attributes that are valued by the participants, but are also a common point of criticism voiced against these informal networks. The networks are accused of having a lack of transparency and legitimacy and of bypassing the national political arenas and democratic institutions.²⁰

Operational aspects

In relation to operational practicality, network contacts are regarded as highly valuable, enhancing the ability to work together on cross-jurisdictional investigations and enforcement matters. For example, in cases of illegal waste shipment there is always at least one other country involved, which requires liaising with witnesses and making inquiries in other countries. In cases where a network may have already familiarized prosecutors or judges, these relationships become highly valuable and create the trust that is needed on the operational level to conduct trans-national investigations and inquiries.²¹

The networks are not only useful for personal contacts, for example EnviCrimeNet also aims at facilitating the establishment of joint investigations and tactical analyses of particular forms of environmental crime and risk assessments that are to be exchanged amongst the participants.²²

¹⁷ Anne-Marie Slaughter, "Disaggregated Sovereignty: Towards the Public Accountability of Global Government Networks," *Government and Opposition* 39, no. 2 (2004): 159–90.

¹⁸ Pink, "Environmental Enforcement Networks: A Qualitative Analysis."

¹⁹ Karin Van Boetzelaer and Sebastiaan Princen, "The Quest for Co-ordination in European Regulatory Networks," *Journal of Common Market Studies* 50, no. 5 (2012): 819–36.

²⁰ Slaughter, "Disaggregated Sovereignty: Towards the Public Accountability of Global Government Networks."

²¹ Pink, "Environmental Enforcement Networks: A Qualitative Analysis."

²² "EnviCrimeNet."

The level of cooperation among members of the networks increases with the level of interdependence of the underlying problem. When the practices of national regulatory agencies affect each other and the differences in implementation practices between countries inhibit successful operational work, there is a greater incentive for the national agencies to cooperate with their counterparts in other countries through networks. This is illustrated by the differences in the level of cooperation concerning the Landfill of Waste (LoW) Directive (European Council, 1999) and the Integrated Pollution Prevention and Control (IPPC) Directive (European Parliament/European Council, 2008). As long as a landfill does not cross borders, there is no incentive for national agencies to cooperate on the matter. Polluting substances, however, do not stop at borders. So the incentive to cooperate across borders increases with the level of interdependence of the underlying problem.²³

Giving advice and influencing policy decisions

Besides the internal activities of the networks like information sharing, cooperation and developing guidance documents, some networks also influence political decision-making by providing information, comments and recommendations to policy-makers.

Networks formally and informally influence the policy process. For example, EUFJE participates in the drafting and evaluation of EU legislation by writing comments for the European Parliament and the Commission. On its website, EUFJE writes that it is, “mindful that matters of policy are not matters for judges”, but the experience and remarks made by members of court on legal matters is regarded as useful and is well received by European institutions.²⁴

IMPEL also takes on an advisory role and provides advice on request on issues related to the practicability and enforceability of EU environmental legislation. IMPEL provided such advice and guidance on proposals that later developed into the Industrial Emissions Directive and the revised WEEE Directive.²⁵ In previous years it also provided input and work that led to the Recommendation of the European Parliament and of the Council (2001/331/EC) providing for minimum criteria for environmental inspections (RMCEI).²⁶

Developing best practices and guidance

IMPEL has committed itself to the development of best practices and the production of guidance to contribute to further improvements as regards inspection, permitting, monitoring, reporting and enforcement of environmental law.

One example is a series of projects, called Doing the Right Things (DTRT), which aims to promote a common understanding of requirements among EU member states and therefore harmonized enforcement actions.²⁷ IMPEL developed a practical guide on planning environmental inspections that would work across member countries to improve compliance with the requirements of the Recommendation (2001/331/EC) (RMCEI) providing for minimum criteria for environmental inspections adopted by the European Parliament and European Council in 2001.

²³ Van Boetzelaer and Princen, “The Quest for Co-ordination in European Regulatory Networks.”

²⁴ “EUFJE, EU Forum of Judges for the Environment,” accessed December 16, 2013, <http://www.eufje.org/>.

²⁵ Andrew Farmer, *IMPEL Project “Practicability and Enforceability of the IPPC Recast Proposal”* (IMPEL, 2008), <http://impel.eu/wp-content/uploads/2010/03/2007-13-pe-checklist-ippc-FINAL-REPORT.pdf>; Andrew Farmer and Emma Watkins, *IMPEL Project “Practicability and Enforceability of the WEEE Directive Recast Proposal”* (IMPEL, 2009), http://www.ieep.eu/assets/439/impel_pe_weee.pdf.

²⁶ “About | IMPEL,” accessed December 16, 2013, <http://impel.eu/about/>.

²⁷ BIO Intelligence Service, *Evaluating the IMPEL Network and Its Work. Final Project Report* (Paris, 2013).

As stated by the Portuguese National Coordinator for IMPEL, the DTRT process has influenced and changed specific aspects of planning inspections. The risk assessment database for Integrated Pollution and Prevention and Control Installations was improved and inspectors are now better prepared when going to sites. This has also improved the allocation and use of resources. Another benefit identified was improved relations between different authorities, ensuring more effective data exchange. The main benefit of the DTRT project is considered to be the exchange of ideas of inspectorates working on the same things and tackling the same problems, thereby coming up with joint solutions.²⁸

Another second example is the IMPEL Review Initiative (IRI), a voluntary scheme providing for informal reviews of environmental authorities in IMPEL member countries. The IRI process is supposed to provide advice to environmental authorities through an external review of their structure, operation or performance, carried out by experts from other IMPEL member countries, for the purpose of benchmarking and improvement of the organization. It is to encourage capacity building in environmental authorities, encourage the exchange of experience and collaboration between authorities on common issues and problems, spread good practice, leading to improved quality of work and consistency in the application of environmental law across the European Union.²⁹

IMPEL also developed a range of guidance tools to support inspectors. For example, where illegal movements of waste are detected, IMPEL has drafted a guidance manual on the return of these shipments back to the country of dispatch. In the course of the 'Waste Sites' project, a practical guidance tool for the inspection of "upstream" waste sites and for the promotion of compliance with waste law on these sites by competent authorities in the IMPEL member countries was developed.³⁰

Sharing of information and experience

Another goal that most environmental networks have in common is the sharing of information and experiences not only among the members of a respective network, but also with the general public. All of the networks refer to the frequently transnational nature of environmental crime and therefore the need to cooperate and exchange information across borders.

INECE hosts international conferences, regional meetings and topic-specific workshops to educate practitioners, foster cooperation on enforcement and promote compliance. The INECE website provides extensive information, digital libraries and searchable databases on the topic of environmental crime that is accessible to the public.³¹

IMPEL also organizes conferences. One example is the Waste Shipments and Management Conference that was held in 2013. The conference assembled inspectors and regulators from competent authorities and from other organizations such as police and customs, as well as diverse stakeholders including representatives from waste receiving countries like China. Such conferences raise awareness not only among relevant EU stakeholders but also receiving countries outside the EU in order to better gauge the entirety of the waste value chain.³²

²⁸ Michael Nicholson, "Networking in Europe: How Networking and Cooperation Have Helped Respond to Environmental Compliance and Enforcement Challenges in IMPEL Member Countries" (presented at the INECE 9th International Conference on Environmental Compliance and Enforcement, Canada: INECE, 2011), 779–89.

²⁹ "IRI Slovenia | IMPEL," accessed December 16, 2013, <http://impel.eu/projects/iri-slovenia/>.

³⁰ "EU Transfrontier Shipments of Waste | IMPEL," accessed December 16, 2013, <http://impel.eu/cluster-2/#achievements>.

³¹ "INECE | International Network for Environmental Compliance and Enforcement," accessed December 16, 2013, <http://inece.org/>.

³² "Waste Shipments and Management Conference 2013 | IMPEL," accessed December 16, 2013, <http://impel.eu/projects/waste-shipments-and-management-conference-2013/>.

Box 1: The Importance of Information and Communication Technologies for Networks

The rise of information and communication technology is an important driver in relation to the emergence of transgovernmental networks.¹ With email and internet making long-distance and low-cost communication far easier, these technological advances provide the means for networks to develop and are considered to be the central cause of the rise of the network phenomenon.

Information and communication technologies, like websites, email and twitter, are an important tools for environmental networks to communicate and connect with relevant members as well as to disseminate information for the general public. For example, IMPEL uses its external website to provide news to its members, inform about upcoming events and meetings, share and store project reports and project documents. IMPEL also uses professional project management software, which allows project teams to share live project reports and edit live documents and provides an online calendar and message service. The establishment and maintenance of large transgovernmental networks is only made possible by these technologies that enable live communication and cooperation over long distances.

Source: Nicholson, "Networking in Europe: How Networking and Cooperation Have Helped Respond to Environmental Compliance and Enforcement Challenges in IMPEL Member Countries."

2.1.3 Evaluation of Environmental Networks

To evaluate the usefulness and value of environmental enforcement networks for the members, Grant William Pink conducted interviews with senior managers of national and sub-national environmental enforcement agencies and asked them about the number and nature of networks different agencies were associated with and the benefits and challenges encountered with such association. The interviewees and their respective agencies are engaged in various international networks (IACP - International Association of Chiefs of Police, INECE and the Interpol Environmental Crimes Committee), regional networks like IMPEL and several networks on the national level.

The main benefits of cooperation with environmental enforcement networks that the interviewees mentioned include the establishment of new contacts, operational aspects and sharing of best practices, as was described in the previous section (1.1.2).

The interviewees also reported some weaknesses associated with these types of networks. They stated that active participation is crucial, but there is always the danger that member agencies stay passive and only take advantage of the existing material. Some of the networks suffer from a lack of resources, because not all of them receive direct financial support from their members. In the case of INECE, the interviewees report that it is successful because there are a stable number of members financing the network. They also pointed out that without proper management, the networks would extinguish over time, rendering effective governance structures extremely important for their longevity. An effective governance structure could for instance take the form of an active, supportive and proactive network secretariat. They also see the problem of a lack of project follow through, attributed to the fact that the member agencies often find it hard enough to manage their domestic projects, so they hesitate to invest time and resources in network projects. While the agencies invest considerable effort and resources into the networks, the benefits are clearly regarded to outweigh the costs and challenges.

The interviewees also mentioned opportunities to improve the performance of the networks. Personal relations are crucial for successful outcomes, so the people who are sent to represent the members in the networks should be selected carefully to ensure they are appropriately matched to the position. The benefits generated from the membership in the networks should be communicated and reported also within the member agencies. Electronic communication via websites is considered important, but the informants expressed a desire for more personal face-to-face contact, because this is a strong enabler to start activities and network projects. The informal gatherings and side events are considered even more valuable than the formal event itself.

The threats that are identified by the interviewees include the inability to sustain internal capacity, the loss of key staff due to a high turnover in the representative roles, and inadequate or non-existent information distribution within the member agencies. These factors can threaten the ability to receive optimal benefits from the network membership.³³

The weaknesses and threats mentioned so far are voiced from members within the respective networks. Networks in general, however, are also confronted with more general criticism from external observers. The most frequent criticism is that governmental networks are networks of technocrats, who are unable to respond to concerns of ordinary citizens. They are also accused of a lack of transparency in general, bypassing the national political arenas and meeting behind closed doors. To a certain degree, the informality and confidentiality of these networks that on the one hand facilitates their convenience and usefulness, is also a point of concern when issues of legitimacy are raised. Government networks are also criticized because they often replicate existing power asymmetries and include only members of the most powerful and economically developed countries, excluding poorer and marginalized countries from participating. In cases where marginalized countries are intentionally included, they are often subject to the power of the strongest members, and even training and assistance can push the weaker members towards a convergence with the substance and style of more developed members.³⁴

Criticism is voiced not only against government networks, but also “global issue networks”, where members include not only governments but also individuals, groups and organizations interested in a certain topic. These experts and enthusiasts outside the government have a great incentive to participate in governmental decisions, but are not representative, so this form of network blurs the distinction between public legitimacy and private power.³⁵

³³ Pink, “Environmental Enforcement Networks: A Qualitative Analysis.”

³⁴ Slaughter, “Disaggregated Sovereignty: Towards the Public Accountability of Global Government Networks.”

³⁵ Ibid.

Box 2: The case of IMPEL

Members of IMPEL and external stakeholders report that the main contributions of IMPEL projects for the member countries are the provision of useful recommendations and guidance on how to better implement and enforce existing EU environmental legislation and for serving as a platform for the exchange of information. This is not only useful for member states, but also for accession countries, which can get assistance from IMPEL to fulfil the requirements of the EU. The success of IMPEL in particular as a network can be attributed to the strong organisational structure and secretariat which has allowed it to continually expand and evolve over time.

Besides these positive aspects, stakeholders also mention a range of problems. One is the domination of a few member states and the inactivity of others. There are several member states that lead and direct more than half of all IMPEL projects since the network's existence. Older member states are generally more active in IMPEL, because for example the UK or the Netherlands have sophisticated inspectorates with a strong organisational basis which allows for continual work on projects. IMPEL membership fees are also a barrier to participation for some countries. Other reasons for lacking participation are language barriers and a lack of support from upper management levels, as membership and participation in IMPEL in some member countries is simply not a priority.

Regarding agenda setting, IMPEL in theory has the autonomy to decide on its project work. In reality, both the European Commission and the national agencies have an influence on the subject areas and types of projects carried out. The Commission is a significant economic contributor in monetary terms. It does not dictate what projects should be carried out, but sometimes it can be difficult for national experts to initiate projects without the acceptance of the Commission.

A problem for the relationship between IMPEL and enforcement agencies is the difference in priorities among the various DGs, for example DG Environment may not have the same priorities as DG Justice. In addition, there is an enormous turnover within the staff of the Commission, so the relevant contact person is sometimes difficult to identify and creates a lack of consistent direction.

Source: BIO Intelligence Service, *Evaluating the IMPEL Network and Its Work. Final Project Report* (Paris, 2013).

3 NGOs

3.1.1 NGOs as Actors in International Relations

In the last decades, non-Governmental organisations (NGO) have come to play a significant role in civil society and international relations, performing a variety of services and humanitarian functions, bringing citizen concerns to governments, advocating and monitoring legal policies, and encouraging political participation through the provision of information. The proliferation of NGOs has led to a heterogeneous mix of organizations that operate at all levels (local, national and international) and engage with diverse actors (governments, corporations, IGOs, other NGOs, civil society). NGOs are different in terms of their size, scope, organizational structure, lifetime, ideology and geography. Additionally, distinctions can also be made in relation to how and with whom they interact and where they get their funding from. The great diversity is realized in the number of acronyms that exist to describe them: GONGO (Government-Operated NGO), DONGO (Donor Organized NGO), ENGO (Environmental NGO), NNGO (Northern NGO), SNGO (Southern NGO), PANGO (Party NGO), MANGO (Market Advocacy NGO) etc.

Defining NGOs is particularly problematic given their heterogeneity, however, the term usually refers to organizations that operate on public sector issues to establish norms, influence public policy and

participate in global governance.³⁶ While their activities, composition and action is remarkably diverse, NGOs can be distinguished from entities in the private-sector (firms) and public-sector (government).³⁷ NGOs are task-driven by groups of individuals and are often focused around specific issues, such as human rights, the environment or health. However, their focus is not limited to such issues. NGOs have come to perform a variety of services and humanitarian functions, by for instance, bringing citizens' concerns to the attention of governments, monitoring international and national agreements and facilitating public participation in political processes.³⁸ They can also provide analysis and expertise, act as watch-dogs and whistleblowers on both private and public institutions.³⁹ In recent years, the increasing number and influence of NGOs in international relations has raised important questions regarding the roles and position of these new actors, who in many ways take on responsibilities that would normally be assumed by governments and international governmental organizations.⁴⁰

Orientation and Level of Operation

NGOs can be differentiated by their orientation (type of activities undertaken) and level of operation (scale at which it works).

Table 1: Differentiation of environmental NGOs by Level of Operation

Level of Operation	Scale	Example
Community Based	Respond/rise out of local or specific situation	Legambiente
National	Nationally affiliated; some have state/county branches-assisting local NGOs	Environmental Investigation Agency
International	Usually issue based; can be responsible for funding local NGOs	World Wildlife Fund, International Union for the Conservation of Nature, Greenpeace

The level of operation for NGOs can be community based, national or international and in some cases a combination of these different scales. Due to improvements in web technology and telecommunications, even the smallest NGO can make contact with larger complex networks and actors and thus reach beyond the level of the community or nation to the international domain. When NGOs ban together in international advocacy networks they have been able to achieve major policy changes at national and international

³⁶ Diana Milton, Sam Hickey, and Anthony Bebbington, *Reclaiming Development? NGOs and the Challenge of Alternatives* (Global Poverty Research Group and Institute for Policy and Management, School of Environment and Development, University of Manchester, 2006).

³⁷ Hildy Teegen, Jonathan Doh, and Sushil Vachani, "The Importance of Nongovernmental Organizations (NGOs) in Global Governance and Value Creation: An International Business Research Agenda," *Journal of International Business Studies* 35, no. 6 (2004): 463–83.

³⁸ Michael Yaziji and Jonathan Doh, *NGOs and Corporations: Conflict and Collaboration (Business, Value Creation, and Society)*. (Cambridge: Cambridge University Press, 2009).

³⁹ Yaziji and Doh, "NGOs and Corporations: Conflict and Collaboration."

⁴⁰ Anne-Marie Slaughter, "A Real New World Order," *Foreign Affairs* 76, no. 5 (1997): 183–97.

levels. For example, the International Campaign to Ban Land Mines brought together hundreds of NGOs united around a single policy domain to affect action at an international level.⁴¹

Operational versus Advocacy

For the purpose of this paper, NGOs can be characterized in two ways, those that are operational and those that are advocacy oriented.⁴² Operational NGOs task themselves with designing and implementing programs and activities while advocacy NGOs concentrate more on collecting information, raising awareness and lobbying.

Operational NGOs:

- Main objective: small change directly through implementation of projects or delivery of services
- Raise finances, apply for grants from governments/development organizations to implement programs in the field
- Often operate in hierarchical structure: main headquarters staffed by professionals who plan and manage projects and then with partner NGOs or people in the field
- Most closely associated with the delivery of services or welfare

Advocacy NGOs:

- Main Objective: achieve widespread social change through awareness, acceptance, knowledge by lobbying and media
- Professional members/experts that keep public engaged in debate, informed, aware, motivated
- Heavily reliant on the media and mass participation
- Must maintain large membership of informed networks of informers who can be mobilized for events, harness media attention, pressure governments

Funding Structures

Funding for NGOs is generally procured either through private donations or government grants. Private donations can range in size and composition, with for instance big funds administered via philanthropic foundations such as the Bill and Melinda Gates foundations or via private donations from individuals or members. The dependency an NGO has with its donor, particularly in cases with government donors, is unique to each relationship. However, it is clear that donors have particular goals to achieve through their spending, and the competition for funds provides incentives for NGOs to align their objectives and priorities with those of the funder.⁴³ For instance, the European Commission's DG Environment provides operating grants to European environmental NGOs. The legal basis and funding instrument is the LIFE+ Regulation, which provides funding of "operational activities of NGOs that are primarily active in protecting and enhancing the Environment at a European level and involved in the development and implementation of Community policy and legislation."⁴⁴ Some NGOs refuse government funding outright and therefore have "zero dependency" on governments (e.g Oxfam US). For those NGOs that do work with

⁴¹ John Baylis, Steve Smith, and Patricia Owens, *The Globalization of World Politics: An Introduction to International Relations* (Oxford University Press, 2013).

⁴² Teegen, Doh, and Vachani, "The Importance of Nongovernmental Organizations (NGOs) in Global Governance and Value Creation: An International Business Research Agenda."

⁴³ Nicola Banks and David Hulme, *The Role of NGOs and Civil Society in Development and Poverty Reduction* (Brooks World Poverty Institute Working Paper, 2012).

⁴⁴ European Commission, *Regulation (EC) No 614/2007 of the European Parliament and of the Council of 23 May 2007 Concerning the Financial Instrument for the Environment (LIFE+)*, 2007.

government funds, some set limits on the percentage of funding they are allowed to receive from governments, while still others attempt to maximize their government income.⁴⁵

In addition to partnerships between NGOs and INGOs, it is increasingly common for NGOs to pursue formal partnerships and donor relations with corporate affiliated foundations and also directly with multinational corporations. However, not all NGOs support collaboration with the private sector and/or government and it is a particularly controversial issue.

3.1.2 The Role of NGOs in Fighting Environmental Crime

Increasingly environmental NGOs take on a combination of advocacy and enforcement roles in relation to environmental crime. They can act as monitoring agents of corporate entities and governments by presenting information to the public and in some cases prosecutors on unethical or illegal behavior. The diversity and complexity of environmental crimes (e.g. wildlife smuggling, export of hazardous waste, VAT fraud in carbon emissions schemes etc.) require advanced skills, expertise and extensive surveillance to detect and address and are most effectively dealt with when cooperation exists between all or many relevant actors (i.e. NGOs, governments, police, the public). The resources and capabilities of a governmental environmental authority (national and local level) to address largely unrelated and equally complex issues on their own and in isolation of other actors is often inadequate. Environmental regulatory bodies also often suffer from practical limitations such as low budgets, small staffs and a general lack of prioritization of environmental issues on the agenda.⁴⁶ It is not uncommon, therefore, that NGOs undertake an active role in the enforcement of environmental crime in particular; however the ways in which they behave and the roles they assume raise important questions regarding accountability and expertise.

NGOs working in Advocacy on Environmental Crime

NGOs are perhaps most well known for their role in conducting campaigns on certain issues. Greenpeace, the World Wildlife Foundation (WWF), and the International Union for the Conservation of Nature (IUCN) are some well known examples of Environmental NGOs (ENGOs) with international presence that conduct far-reaching public awareness campaigns on a breadth of environmental issues, some of which are related to environmental crime.⁴⁷ The main objective of these organizations is to educate the greater public and push forward social change. Many operate by providing their large membership with information, appealing for support by asking for donations and signatures on petitions, and thus garnering popular leverage to lobby governments, shame companies, and elicit enough interest on an issue to affect real change. Advocacy NGOs tend to rely on a strong media presence, presenting detailed reports, videos and photos that in turn influence public opinion that can target policy makers and governments.

NGOs with strong networks of members and supporters can exert serious pressure on governments, acting in many ways similar to a lobbying organization. In turn, many governments and intergovernmental bodies rely on NGOs to inform decisions, which has created a unique niche for NGOs as influential actors in governmental decision making. For example, in April 2013, the NGOs, the Environmental Investigation Agency (EIA), WWF and the Wildlife Trade Monitoring Network (TRAFFIC) presented a joint briefing that

⁴⁵ Ian Smillie, "At Sea in a Sieve?: Trends and Issues in the Relationship between Northern NGOs and Northern Governments," in *Stakeholders: Government-NGO Partnerships for International Development*, ed. Ian Smillie et al. (UK: OECD, 1999).

⁴⁶ Rob White, "NGO Engagement in Environmental Law Enforcement: Critical Reflections," *Australasian Policing* 4, no. 1 (2012): 7–12.

⁴⁷ Some examples include: Greenpeace's "Cut it Out" program on Illegal logging in the DRC; The Environmental Investigation Agency (EIA) program on wildlife crime and e-waste, among others; IFAW on wildlife trafficking.

led to the adoption of a draft resolution on “Crime prevention and criminal justice responses to illicit trafficking in protected species of wild fauna and flora,” at the UN Commission on Crime Prevention and Criminal Justice.⁴⁸ Several months later, in July 2013, the UN Economic and Social Council adopted the Resolution.⁴⁹

The Role of NGOs in Criminal Enforcement

The role and legal right of an NGO to undertake an investigation varies depending on the NGO in question. Some NGOs have a specific mandate to investigate and prosecute crimes against the environment which is a formal responsibility often designated at the national level. For instance, the UK based NGO Royal Society for the Prevention of Cruelty to Animals (RSPCA) has its own prosecutors and inspectors. It is one of the few NGOs that has official legal status to question witnesses, initiate prosecutions and collect evidence on animal abuse cases.⁵⁰ Other NGOs participate in investigations and prosecutions in formal and informal ways. EIA, for example, does not have an official relationship with a specific legal entity, but it does carry out its own investigations. EIA states on its website that as an NGO, it will present confidential briefings to assist officials in criminal investigations and submit information at the invitation of individual governments and intergovernmental organizations on specific issues or cases. EIA addresses a variety of environmental crime issues, however, other NGOs may limit themselves to a specific subject area. The Basel Action Network, for example, investigates and exposes social and environmental cases related to e-waste exclusively. Still other NGOs, contribute informally to criminal enforcement. For instance, Greenpeace, works independently of law enforcement officials and instead investigates crimes to strengthen their campaign and awareness raising work. Inadvertently, information gathered by Greenpeace may be used to assist authorities in an investigation; however, this is not their mandate.

Successful Cooperation: Enforcement brought about through Training Workshops

Establishing good cooperation between NGOs and official environmental law enforcement agencies and their personnel is particularly important given the scope and scale of environmental crime. The ways in which cooperation between actors takes place tends to be unique to specific issues and actors, however, the flexibility of relationships has led to some innovative examples of cooperation between NGOs and official law enforcement agencies.

Trade and trafficking in wild animal parts is a particularly interesting example as black market trade has burgeoned since 2007, eliciting cooperative responses from governments and other actors at international, national and local levels. One specific example is that of *Operation Charm* in the UK, a collaborative effort between police enforcement agencies and NGOs to halt and prevent the trade of wildlife and wildlife parts in London. In 1995, the Metropolitan Police launched “Operation Charm” an initiative to halt the UK’s trade in wildlife through a two-track operation of law enforcement and increased public awareness. In 2006, Operation Charm expanded its partnership to include the Metropolitan Police Wildlife Crime Unit, the Greater London Authority with several NGOs including WildAid, the International Fund for Animal Welfare, WWF-UK and the David Shepherd Wildlife Foundation (DSWF). These actors take on different responsibilities; the Metropolitan Police enforce the laws, making arrests, while the NGO WildAid raises widespread awareness through professional media campaigns. Through public awareness

⁴⁸ EIA, WWF, and TRAFFIC, “A Joint Briefing Presented at the 22nd Session of the Commission on Crime Prevention and Criminal Justice (CCPCJ),” 2013, <http://www.eia-international.org/wp-content/uploads/CCPCJ-Brief-wildlife-forest-crime-FNL-WWF-EIA-TRAFFIC.pdf>.

⁴⁹ ECOSOC, *2013/40 Crime Prevention and Criminal Justice Responses to Illicit Trafficking in Protected Species of Wild Fauna and Flora.*, 2013, http://www.unodc.org/documents/commissions/ECOSOC-Res-2010-20/ECOSOC-Res-Dec-2013/E_RES_2013_40.pdf.

⁵⁰ White, “NGO Engagement in Environmental Law Enforcement: Critical Reflections.”

campaigns, the NGOs provide information to citizens and encourage them to report incidents of potential illegal trade, thereby supporting the work of the enforcement officers. Operation Charm is a unique example of inter-agency cooperation, particularly between an NGO and policy authority. It is important to note that information sharing between agencies, particularly in cases of transnational crime, remains a key challenge to effectively fighting crime. Establishing relationships and repeated coordination helps break down these barriers. However it should be noted that within the field of environmental crime issues of security and confidentiality remain a relevant challenge for inter-agency cooperation.

In recent years, and particularly in relation to wildlife crime, NGOs have taken on a training and capacity building role in cooperation with enforcement agencies and governmental authorities. Training workshops, tools and materials are usually developed in coordination with other organizations to improve border protection and operations. An interesting example of cooperation between a government organization and an NGO on training workshops and enforcement is that of Interpol and the NGO International Fund for Animal Welfare (IFAW), working together since 1995 on trafficking issues related to endangered animals.⁵¹ IFAW has been working in cooperation with Interpol by training law enforcement officers in wildlife trafficking prevention in Africa, the Middle East, Asia, Oceania and the Caribbean. In May 2012, IFAW funded Interpol's *Operation Worthy*, a three month police operation involving 14 countries across Eastern, Southern and Western Africa. Before the operation was carried out, IFAW trained over 320 officers from a range of relevant agencies including police, customs, environmental protection agencies, veterinary services, airport security, ministries of tourism and national prosecuting authorities from 14 African countries.⁵² Interpol reports, that Operation Worthy brought forth the arrest of 214 individuals and seized 2 tons of contraband ivory, 20 kilos of horn and 30 illegal firearms.⁵³ The success of this project led to the signing of a Memorandum of Understanding (MoU) in 2013 between Interpol and IFAW, marking the first time a MoU was signed by Interpol's Environmental Crime Program and an NGO. The MoU is focused specifically on the trafficking of wild elephant, rhino and tiger parts.

Another example of an NGO providing training support alongside a government, is that of the Asian NGO Freeland and US authorities. Freeland is based in Bangkok and works with governmental authorities in the U.S. and Asia to provide training and capacity building courses in counter-trafficking.⁵⁴ Freeland has designed two main training programs called PROTECT (Protected-area Operational and Tactical Environmental Conservation Training) and DETECT (Detection of Environmental Crime Training). PROTECT is designed to provide training for all protected area staff including forest rangers and managers while DETECT is a capacity building program for law enforcement officers, prosecutors and park staff and focuses on providing training on investigation techniques in relation to a wildlife offence. Through these programs, Freeland has trained over 2,000 participants.⁵⁵ Freeland is also the partner responsible for

⁵¹ International Fund for Animal Welfare (IFAW), "First Ever NGO, Interpol Agreement Establishes Partnership to Fight Wildlife Crime," 2013, <http://www.ifaw.org/united-states/news/first-ever-ngo-interpol-agreement-establishes-partnership-fight-wildlife-crime>.

⁵² Ethiopia, Botswana, Ghana, Guinea Conakry, Kenya, Liberia, Mozambique, Namibia, Nigeria, Rwanda, South Africa, Swaziland, Zambia, Zimbabwe.

⁵³ INTERPOL, "Ivory Trafficking in West and Central Africa Targeted in INTERPOL Operation with IFAW Support," July 22, 2013, <http://www.ifaw.org/united-states/news/first-ever-ngo-interpol-agreement-establishes-partnership-fight-wildlife-crime>.

⁵⁴ Jessica Graham, "Law Enforcement Efforts Underway to Combat Wildlife Trafficking," *US Department of State Official Blog*, March 19, 2014, <http://blogs.state.gov/stories/2014/03/19/law-enforcement-efforts-underway-combat-wildlife-trafficking>.

⁵⁵ USAID, "LMI: Asia's Regional Response to Endangered Species Trafficking (ARREST)," October 2011, <http://www.usaid.gov/asia-regional/fact-sheets/lmi-asias-regional-response-endangered-species-trafficking-arrest>.

providing training courses in wildlife trafficking for the US Agency for International Development (USAID) funded project ARREST (Asia's Regional Response to Endangered Species Trafficking).⁵⁶

These innovative examples of cooperation between formal government authorities and operational NGOs marks the perceived necessity of cooperative working relationships between diverse actors in order to effectively deal with environmental crime.

Cooperation and Collaboration between actors in Environmental Crime

Given the increasing significance and influence of NGOs, White (2012) argues that there is a need to establish more clear rules of engagement, responsibilities, and spheres of action. He highlights some detrimental long-term repercussions of actors acting in isolation or instead of one another and calls this "role displacement" between NGOs and official law enforcement agencies. He explains that an overactive NGO sector might inadvertently result in the retreat of the state from its formal regulatory role. In the US, for instance, the Environmental Protection Agency (EPA) relies on NGOs and volunteer groups to collect information and data as a cost cutting measure. As a result, the volunteer organizations or NGOs have little authority over the data that they collect, thereby, influencing the accountability of the NGO to its public stakeholders. Inversely, the EPA is relying on NGOs, that are potentially biased actors as they represent and are beholden to their own stakeholders and mission.

On a transnational level of operation whereby a powerful NGO from a developed country is operating in a less developed country, it is possible that the foreign NGO may impose their own hierarchy of values on the political agenda of another country.⁵⁷ White (2012) and Duffy (2010), point to the example of Western NGOs prioritizing land preservation over traditional or indigenous uses of land in foreign countries.⁵⁸

Box 3: The case of 'Ndrangheta

Role Displacement of a Governmental Institution by an NGO

The issue of role displacement is illustrated in the case of Italy, where the environmental NGO Legambiente actively assisted in the prosecution of the mafia syndicate 'Ndrangheta in Calabria for charges of illegal radioactive waste dumping in the 1980s and 1990s. In this particular case, the Italian government sponsored agency, Agenzia nazionale per le nuove tecnologie, l'energia e lo sviluppo economico sostenibile (ENEA), (National agency for new technologies, energy and sustainable economic development) was complicit in the dumping of toxic waste, paying criminals to take waste off their hands. Given the complexity of involved actors, the NGO Legambiente took it upon itself to independently collect evidence over the course of a decade and provided the public prosecutor's office with all the data collected since 1994, concerning the disappearance and assumed sinking of some 40 ships in the Mediterranean. Such an example highlights the importance and authority an NGO can assume in a prosecution but also illustrates the role displacement as NGOs assume the tasks of governmental bodies when those formal authorities are corrupt, weak or not present.

The Accountability of NGOs in Enforcement of Environmental Crime

⁵⁶ Ibid.

⁵⁷ White, "NGO Engagement in Environmental Law Enforcement: Critical Reflections."

⁵⁸ Rosaleen Duffy, *Nature Crime: How We Are Getting Conservation Wrong*. (New Haven: Yale University Press, 2010).

The increased presence of NGOs, both in roles of advocacy and operational enforcement activities, has elicited important questions about their work in regards to their accountability and transparency. Many NGOs are characterized as a type of special interest group and are committed to specific issue. It's not uncommon that NGOs commit themselves to an issue on subjective, moral or ethical grounds which creates a question of their accountability and legitimacy particularly in cases where they are assisting in prosecutions and generally, as they are influencing public opinion.

An NGO's declared allegiance to an issue results in specific objectives and actions, which are not necessarily legitimized by a societal consensus or reflected in existing legislation. As a result, NGOs often have a more ambiguous relationship to existing legal structures and sometimes position themselves as being foremost dedicated to the issue/s that they represent rather than to a specific law or legal framework.⁵⁹ Also, NGOs actions are governed by a legal set of rules different from those governing entities such as Interpol or a local police unit, which in turn influences how they behave and the means to which they pursue their objectives.

It is not uncommon that NGOs engage in illegal activity on moral grounds to either stop an activity from taking place outright or by using illegal means to collect evidence against an allegedly illegal action by a government or private actor.⁶⁰ Examples of NGOs taking illegal or questionably legal action could for instance include a blockage of a road used for illegal logging, the seizure or destruction of machinery or tools such as illegal drift nets, or illegal entry to aid an investigation by breaking and entering into a laboratory, slaughterhouse or factory farm.⁶¹ Some NGOs justify this 'direct action' as a means to enforce laws that are already in place that they feel are ignored or insufficiently enforced. For example, the NGO Sea Shepherd Conservation Society describes its mission and responsibility to "assume a law enforcement role as provided by the United Nations World Charter for Nature," adopted in 1982 and cites Section 21 under the heading of Implementations as the Society's authority to act on behalf of international conservation law."⁶² Sea Shepherd uses direct action tactics such as disabling whaling vessels at harbor, shining laser light into the eyes of whalers, throwing bottles of foul smelling butyric acid onto vessels at sea, boarding whaling vessels at sea, and seizure and destruction of driftnets at sea. The legality of such actions are clearly ambiguous, however, this NGO argues that they are fighting against already illegal action.

NGOs that engage in such types of activity may exhibit a certain real-world flexibility by operating outside of law and formal bureaucratic structures, however, in doing so they jeopardize collaborative partnerships with environmental law enforcement agencies and relegate themselves to the realm of rogue actors. At the same time, direct engagement by NGOs has been instrumental in garnering international recognition of grave violations of environmental law. Sea Shepherd played an important role in garnering international support, awareness and video evidence of Japan's illegal research program that exposed the illegal killing of whales for food despite an international moratorium on commercial whaling implemented over a decade ago. While Sea Shepherd had no official role in the court proceedings, a March 2014 ruling by the International Criminal Court (ICC) in the case, *Whaling in the Antarctic (Australia v. Japan: New Zealand intervening)* effectively ended Japan's JARPA II "research" program in the Southern Ocean. Sea Shepherd was instrumental in gathering evidence and preparing the case.

The issue of accountability and legitimacy also extends to an NGOs role in influencing public opinion. A common critique of NGOs is that their advocacy campaigns can sometimes include public statements that

⁵⁹ White, "NGO Engagement in Environmental Law Enforcement: Critical Reflections."

⁶⁰ Mette Eilstrup-Sangiovanni and Teal N. Phelps Bondaroff, "From Advocacy to Confrontation: Direct Enforcement by Environmental NGOs," *International Studies Quarterly*, 2014, 1-14.

⁶¹ White, "NGO Engagement in Environmental Law Enforcement: Critical Reflections."

⁶² SSCS, "Sea Shepherd Conservation Society," *Who We Are: Mandate*, 2014, <http://www.seashepherd.org/who-we-are/mandate.html>.

are factually incorrect, highly subjective in terms of available evidence or focused so narrowly on a specific issue that the broader context in which the issue occurred is ignored or subterfuged.⁶³ NGOs are also accountable to their stakeholders, whether this be society as a whole, a specific needs group or their employees. When NGOs are contracted for specific work, by for instance, governments, it is important to distinguish to whom they are accountable. Their actions and work, therefore, may not represent the grassroots groups they claim to represent.⁶⁴

4 Summary

The role of non-legal actors in international relations and global governance is extensively discussed in political science literature; however, the ways in which these non-legal actors behave and interact with international, national and regional institutions in implementing and enforcing environmental laws and regulations is less well explored. Within this paper, the role of transgovernmental networks and NGOs is described and evaluated to better understand how they, as non-legal actors, contribute to combating environmental crime. Both transgovernmental networks and NGOs vary in their size, composition and orientation; however, some generalities and principles of engagement can be distinguished.

Environmental networks play an important role in the field of environmental crime, supporting institutions in implementing and enforcing environmental laws and regulations. The environmental enforcement networks considered in this paper share the same overarching goal of facilitating cooperation across national borders, albeit they differ both in geographical scope and membership. The most important international network is the INECE, with a broad range of members from governmental enforcement agencies to NGOs and business. On the level of the EU, the networks examined are more restrictive in their membership, each focusing on a different group of actors concerned with environmental crime, for example IMPEL focused on officials from environmental ministries and agencies, EnviCrimeNet on members of investigation services, ENPE on Prosecutors and EUFJE for judges. The networks are important for the fight against environmental crime through their various activities. Especially valuable is the intensification of contacts between professionals and practitioners on the operational and strategic level, breaking down barriers that inhibit inter-agency cooperation and making the work more efficient. These contacts are also useful on the operational level, enhancing the cooperation on cross-jurisdictional investigations like in the case of illegal cross-border waste shipment. Some of the networks also influence policy decisions by providing information, comments and recommendations to policy-makers. One important task especially IMPEL has committed to is the development of best practices and the production of guidance to contribute to further improvements regarding inspection, permitting, monitoring, reporting and enforcement of environmental law. A goal of all the networks is sharing information and experiences, referring to the transnational nature of environmental crime and therefore the need to exchange information across borders.

The informality of the cooperation through these networks is also subject of criticism. They are accused of a lack of transparency and legitimacy, meeting behind closed doors and bypassing the national policy arenas. However, given the fact that offences against the environment in many cases affect more than one country and often take advantage of differences between legislatures and competences, the intensification of cross-border contacts through the networks is important and better increasing the efficiency of environmental enforcement.

⁶³ Jane Nelson, *The Operation of Non-Governmental Organizations (NGOs) in a World of Corporate and Other Codes of Conduct*. (John F. Kennedy School of Government, Harvard University, 2007).

⁶⁴ Ibid.

NGOs can and do play an important and significant role in improving compliance, raising awareness and fighting environmental crime. This paper illustrates some examples of NGO engagement which is extremely diverse but commonly involves either an advocacy or enforcement role. Within these roles, NGOs collect and disseminate information to both the public and/or to law enforcement officials, both avenues of which are capable of bringing about direct action. Direct action could result from an advocacy campaign that garnered enough public awareness and support to influence change at the legal level. Some examples highlighted in this paper, also show how an NGO can take direct action at the enforcement level. Direct action can include “direct engagement” whereby an NGO intercepts on behavior it assumes as immoral or illegal, as the example of Sea Shepherd illustrated. Another form of direct engagement can be through the provision of training workshops for enforcement officials, a role that was particularly relevant for fighting the illegal trade and traffic of wild plants and animals.

Through their participation and active engagement NGOs are influencing the emergence of new enforcement and security structures that are driving cross-sectoral cooperation. Within this paper, there are several examples of cooperation, particularly between NGOs and enforcement agencies that illustrate new cross-sectoral alliances and partnerships. In particular, the example of IFAW taking on a funding role for an Interpol project demonstrates a novel way of pooling resources and untraditional donor-recipient relations. The general debate about NGO accountability remains pertinent in the context of environmental crime and is perhaps most prominent in situations where NGOs engage in illegal activities on behalf of the environment. The legitimacy of NGOs also extends to their role in influencing public opinion on environmental crime issues.

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