



## Wildlife trafficking in light of Brazilian law and legal treaties International

*Trafficking in wild animals in the light of Brazilian law and international law treaties*

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### SUMMARY

This study analyzes the main impacts of international wildlife trafficking on humans, in accordance with the Fauna Protection Law, Forest Code and Federal Constitution. Seeks to understand how Brazilian legislation influences the adoption of measures against the illegal trade of wild animals on national and international soil. It takes a qualitative approach to the literature available on the subject, in the Scielo, Lillacs and Google Scholar databases, in addition to being based on environmental law scholars who act as vanguards in the fight against national and international wildlife trafficking, using the Boolean search engine "and" in combination with descriptors "Wild Animal Trafficking", "Forest Code" and "Fauna Protection Law". It understands that there are flaws in the supervision of wildlife trafficking, but, above all, the feeling of impunity prevails, encouraging the commission of new environmental crimes. It is believed that tightening laws and more efficient supervision can contribute to minimizing environmental impacts resulting from predatory actions against wild animals.

**Key words:** Wildlife Trafficking. Forest Code. Fauna Protection Law

### ABSTRACT

The present study analyzes the main impacts of the international trafficking of wild animals to man, according to the Fauna Protection Law, Forest Code and Federal Constitution. Seeks to understand how Brazilian legislation influences the adoption of measures against illegal trade in wild animals on national and international soil. It makes a qualitative approach to the available literature on the subject, in the databases of Scielo, Lillacs and Google Scholar, in addition to being based on environmental law indoctrinators who act as vanguards in the fight against national and international trafficking of wild animals, using the Boolean search engine "and" in combination with the descriptors "Wildlife Trafficking", "Forest Code" and "Fauna Protection Law". He understands that there are flaws in the inspection of the trafficking of wild animals, but, mainly, the feeling of impunity prevails, encouraging the achievement of new environmental crimes. It is believed that tougher laws and more efficient enforcement can contribute to minimizing the environmental impacts resulting from predatory action against wild animals.

**Keywords:** Wild Animal Trafficking. Forest Code. Fauna Protection La

### 1. INTRODUCTION

The illegal trade of wild fauna and flora is considered a recurring practice in Brazil and around the world. It is estimated every year that thousands of wild animals are hunted, sold, kept in captivity and brutally murdered in order to meet the requests of businessmen and collectors of rare specimens for the most disastrous and futile purposes.

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Confusion regarding the classification of wild and domestic species is still very common, even among professionals in the environmental field. However, clarifying this classification is extremely important. Domestic specimens can be considered, animals that do not pose a danger in coexistence with humans, can be tamed and have a history of integration with the elements of urban life without major damage to their physical structure; Wild species can be native (occur in a certain territory – which could be a region, a state, a country, for example) or exotic (a species that grows in

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is found outside its natural distribution area, transported – accidentally or not (FERREIRA; BARROS, 2020).

The Fauna Protection Law, n. 5,197/67 defined, in the caput of article 1, that wild animals are the property of the State, in addition, it prohibits the use, persecution, destruction, hunting or collection of specimens. Despite this, wildlife trafficking continues to occur systematically and persistently, even with the Forest Code, Law no. 12,651/12, which provides in its art. 6th, item IV, which is the responsibility of the Permanent Preservation Area, when declared of social interest by act of the Head of the Executive Branch, shelter specimens of fauna or flora threatened with extinction and with all other legal provisions intended to protect wild specimens., Furthermore, as determined by the art. 29 of law no. 9,605/98 of the Penal Code: "Killing, persecuting, hunting, catching, using specimens of wild fauna, native or on the migratory route, without due permission, license or authorization from the competent authority, or in disagreement with that obtained : Penalty - imprisonment from six months to one year, and fine." The aforementioned criminal law is believed to be lenient in terms of penalties, given the almost endemic recidivism of this criminal type throughout the country, especially in the Legal Amazon area.

Considering that it is the duty of the State and every citizen to ensure the preservation of Brazilian fauna and flora windrow, according to the 1988 Federal Constitution; that wild specimens are being taken from the State through illegal trade throughout the country; that the environmental rights of wild specimens that belong to humanity have been violated, thus configuring an international crime, the following guiding question arises: "In what ways have the normative instruments of Brazilian law been effective in combating wildlife trafficking in the country?"

It is known that there are security protocols at airports, in addition to inspections on federal, state and municipal highways, and other barriers that "help" prevent wildlife trafficking and biopiracy, but it is believed that the best security protocol The fight continues to be the campaign against wildlife trafficking and providing information to the population. It is understood that the slowness of justice in judging cases involving the illegal trade of these specimens and the feeling of impunity regarding hunting, fishing, exhibition, sale and use of these animals is encouraging to offenders, and it is important to consider other mechanisms of action aimed at inhibiting the trafficking of these wild entities.

Therefore, the primary objective of this study is to understand how Brazilian legislation influences the adoption of measures against the illegal trade of wild animals on national and international soil. The secondary objectives are: to identify the types of environmental crimes against wildlife, with the appropriate criminal sanction; compare Brazilian law with international law regarding criminal sanctions against the perpetrator of crimes against wildlife; understand the relevance of protecting wildlife and creating mechanisms against perpetrators of national and international trafficking crimes.

The present study takes a qualitative approach to the available literature on the subject, and is based on environmental law scholars who act as vanguards in combating national and international wildlife trafficking. To this end, it carries out a literature review and uses the virtual libraries of Scielo, Lillacs and Google Scholar and as inclusion criteria, articles published in the last 10 years, corresponding to the topic, available in full in Portuguese and English; and as exclusion criteria, studies that do not address wildlife trafficking, or are partially available.

The study is relevant from a legal and environmental point of view, since biodiversity and the trafficking of wild animals are at the top of illegal trade in the world, causing the extinction of several animals, such as the Hyacinth Macaw, Lion Tamarin golden, scarlet macaw, ocelot, toucan, rattlesnake, boa constrictor, coral snake, among others. In this way, this illegal act has generated exorbitant consequences that cause ecological imbalance, being, therefore, an affront to the individual rights and guarantees of citizens and wild specimens, since they are legal assets of great value to society.

## two METHODOLOGY

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The present study is a qualitative approach to the available literature on the subject, and is based on environmental law scholars who act as vanguards in combating national and international wildlife trafficking. To do so, it will carry out a literature review and use the virtual libraries of Scielo, Lillacs and Google Scholar. As inclusion criteria, articles published in the last 10 years, corresponding to the topic, available in full in Portuguese and English; and as exclusion criteria, studies that do not address wildlife trafficking, or are partially available.

### 3 WILD ANIMALS TRAFFICKING IN BRAZIL AND SOCIO-ENVIRONMENTAL IMPACTS

Studies aimed at combating the illegal trade of wild animals in Brazil indicate that Among the species most vulnerable to hunting, habitat loss and animal trafficking are large mammals. Furthermore, fruit-eating birds also suffer from this type of hunting, carried out in a sporting or professional manner in most areas of the Atlantic Forest, thus causing irreparable damage to nature every year.

The literature understands that the growth of illegal wildlife trafficking is due to some factors that end up favoring this activity, among which the lack of efficient supervision stands out - partly because the environmental police have a smaller team, or even vehicles and other artifacts used to prevent this practice - either due to the mild criminal sanction for the perpetrator of the crime, or due to the slowness of justice.

The Brazilian Environmental Crimes Law, n. 9,605/98 is highly relevant in combating animal trafficking and defines in its art. 29 the crime of animal trafficking, establishing guidelines to combat this practice. However, the legislator was not concerned with the monetary speculation of these wild specimens, whose market value has absurdly multiplied after the extraction of biological materials for the most diverse purposes, from the production of superfluous items such as bags and shoes, as well as for production of delicacies served in the richest and most exotic restaurants in the world.

It is known that the creation of the Brazilian Institute of the Environment and Renewable Resources (IBAMA), a federal agency responsible for implementing public policies on the environment and environmental inspection, was essential for monitoring actions related to disrespect for legal parameters regarding the protection of Brazilian fauna and flora. Therefore, IBAMA has a fundamental role in the seizure of wild animals and their adequate identification, treatment, sorting and destination (BRASIL, 2008). Although the body has the autonomy to fine and adopt other measures to compensate for the damage, it is common for the perpetrators of this criminal type to use mechanisms to circumvent the authorities, such as dispensing illegal material in the most diverse creative ways they find to escape the act and of responsibility.

After the animals are seized, some actions are taken to protect these wild specimens. Ferreira et al. (2011) advises that:

The receipt of animals at CETAS can be classified, according to their origin, in three different ways: a) seizure, represented by animals resulting from the inspection action of IBAMA or the Environmental Police; b) collection, resulting from the capture of animals by IBA-MA or Environmental Police; c) voluntary delivery, made by the citizen who illegally kept wild animals under his custody.

It is important to emphasize that it is not the voluntary surrender described, it is not always carried out according to the will of the citizen who kept the animal in prison, it is common for the community itself to notify the Public Ministry or even other control bodies and, with a view to To avoid the judicialization of the process and the possible arrest of this individual, he prefers to hand over the animal. In these cases, an inertia of justice is perceived, because, even if the delivery of this animal was carried out, it does not mean that the perpetrator does not have others, or even does not commit such a crime again, since the penalty does not command respect.

In this sense, Ferreira and Barros (2020) warn that wild animals captured by hunters are generally used for the following purposes:

Decorative articles; items linked to traditional religions and/or medicine; ornaments and souvenirs; hunting trophies; game meat; ornamental fish; culinary delicacies; active ingredients for scientific research, cosmetic and pharmaceutical industries, and objects for scientific research; articles related to the fashion industry; animals to supply zoos, aquariums and collectors; wild pets ("pets").

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The greater the rarity of captured wild specimens, the more valued they are, which ends up attracting Given the attention of hunters, if there is a market, this type of crime will never cease to exist. Hence the idea that through awareness campaigns it is possible to minimize the illegal trade of animals, by exposing the harmful consequences of this practice, however, awareness campaigns alone are not enough, studies show that one must think about tightening the law and increased inspection, especially in the most vulnerable regions of the Amazon.

It should be noted, as stated, that it is not possible to estimate the amounts gained from the commercialization of wild animals so easily, as there is great volatility in the illegal market for these specimens. Since Brazil has the greatest biodiversity on the planet with approximately 721 specimens of reptiles, 1901 birds and 713 species of mammals, it is important to preserve, it is possible to infer that the actions of environmental agencies need to be even more effective (LIMA; BARBOSA; CHAVES, 2018).

In the same sense, Ribeiro and Silva (2007) warn that:

Wildlife trafficking constitutes the third largest illicit trade in the world, second only to narcotics and weapons trafficking. It is estimated that illegal trade is worth around US\$ 10 to 20 billion/year and Brazil's share would be approximately 5% to 15% of this total, corresponding to the removal, per year, of between 12 and 38 million animals wild animals in Brazilian forests. The main places where the animals are captured are in the states of Bahia, Pernambuco, Pará, Mato Grosso and Minas Gerais, with them being transported to the South and Southeast regions, where the main consumers are located.

The commercialization of these wild animals is highly profitable and it has been a challenge to stop this type of activity, mainly because there is not enough severity nor human and material resources to deal with the trafficking of these specimens. Man's predatory action continues to exercise his power, but the result of this greed can cost the comfort of human life in future generations.

It is known that at the time of the creation of Law 5,197/67, the country was at a very critical political moment, with military sovereignty being established in the (vain) attempt to propagate order and Brazilian progress, in this way, it is possible to analyze the relaxation of human predatory activity, as can be seen in the following transcript:

Art. 3 The trade in specimens of wild fauna and products and objects that involve their hunting, persecution, destruction or capture is prohibited.

§ 1 Specimens coming from duly legal breeding sites are excluded.

§ 2º It will be permitted, upon license from the competent authority, the collection of eggs, larvae and young that are destined for the establishments mentioned above, as well as the destruction of wild animals considered harmful to agriculture or public health.

§ 3 The simple failure to provide proof of origin of skins or other wild animal products, in shipments by land, river, sea or air, which begin or transit through the country, will immediately characterize non-compliance with the provisions of the caput of this article. (Paragraph added by Law No. 9,111, of 10/10/1995)

The first paragraph demonstrates the concern for the owners of breeding sites, in addition to the destruction of animals harmful to agriculture, again a matter focused on economic interests to the detriment of the protection of these animals. In 1995, however, the legislator was concerned with requiring a license proving the origin of articles coming from wild animals in any and all modes of transport, proof that environmental issues were uncovered for all this time (almost 30 years) in Brazilian legislation, giving rise to the interpretation that these wild animals are not that important, giving an image of total disrespect for the fundamental rights and guarantees of citizens before the Federal Constitution.

In art. 4th of the Federal Constitution, section IX, it is recorded that one of the principles by which Brazil's international relations is: cooperation between peoples for the progress of humanity. The art. 225, of the aforementioned Charter, in section VII, clarifies that it is the duty of the Union and all Brazilians to protect the environment and the protection of animals, as per the following transcription: "to protect the fauna and flora, prohibited, in accordance with the law, practices that put their ecological function at risk, cause the extinction of species or subject the

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animal cruelty". Therefore, it is important to understand that the protection of wild animals is essential and helps combat the extinction of specimens and cruel practices. In this context, it is important to emphasize that sporting practices that use animals are not considered cruel, as long as they are cultural manifestations, taking into account the well-being of the specimens involved.

Another relevant factor regarding the impacts caused by animal trafficking is the environmental imbalance arising from their extinction or migration from their natural habitat, preventing the food chain process from happening as expected, thus promoting the lack of control of other related specimens. to that animal that was removed from nature to serve man's hidden purposes.

It is also known that, during the period of the SARS-Covid-19 pandemic, there was an increase in drug trafficking

animals, because, based on the protocols used to contain the disease, such as remote work and the reduction of the number of professionals responsible for searching and seizing these wild animals, it facilitated the path of hunters who continued their activities normally, despite the dangers public and personal health (FERREIRA; BARROS, 2020).

Santos (2019) analyzes that supervision occurs in an incipient manner and there are ineffective methods for punishing offenders, as happens in criminal justice. The author understands that Brazilians act dissolutely and do not realize the harm they cause to humanity, therefore, she warns that the illegal trade in wild specimens, a priori, appears to be a good business, but in the near future it will be missed, especially the related substances to the natural cycle of these animals.

## FINAL CONSIDERATIONS

Brazilian legislation, regarding the preservation of fauna and flora, has evolved slowly. (12,651/12). It must be considered that the protection of wild specimens has been neglected since the beginning of the exploration of Brazil, at the time of Discovery, as a result of which, countless specimens have become extinct or are about to become extinct.

International wildlife trafficking is a constant in Brazil, facilitated by inefficient supervision, especially in the most inhospitable regions, where there is disregard for the law that prohibits hunting, fishing or collecting specimens under protection. It is known that wild specimens are property of the State, therefore, it has direct legal responsibility for them. In this context, we consider the efforts of social movements, non-governmental entities, volunteers and civil society to prevent the predatory action of these wild specimens at the risk of extinction and environmental imbalance.

The illegal trade in wild specimens, however, gains importance due to the rarity and market value attributed to them. It is understood that the problem of protecting these animals also lies in analyzing the impacts related to their uncontrolled proliferation, since owners of breeding sites can hunt, persecute, exterminate, in this sense, the need to meet economic parameters is inferred. , as usual.

It can be said that containment measures against animal trafficking still need to be reviewed in Brazil, the normalization of the activity and possible political influence on the practice of this crime, especially in recent years, has been one of the causes for the growth of illegal trade of these specimens. It is believed that the tightening of laws will contribute to inhibiting animal trafficking, but it needs to be aligned with the creation of awareness campaigns so that, gradually, there will be a decrease in the number of people interested in acquiring these animals illicitly, inside or outside the country. country, minimizing the practice of this illegal activity.

It is expected that future studies will quantitatively point out the environmental impacts caused by the illegal trade of wild animals in Brazil, observing the data made available by the bodies that protect these specimens in order to inhibit hunting, persecution, sale and extinction. It is also believed that civil society and social movements for environmental protection will take more legal action and provoke the Public Prosecutor's Office to punish offenders and preserve the highest possible percentage of these animals.

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