



Illegal Wildlife Trade (IWT) Challenge Fund Half Year Report (due 31st October 2019)

Project reference:	IWT061
Project title:	Wildlife in Indonesia: Loss, Damage & Sanctions (WILDS)
Country:	Indonesia
Lead organisation:	Lancaster Environment Centre, Lancaster University
Collaborators:	Auriga, Environmental Law Institute, Legal Atlas
Project leader:	Jacob Phelps
Report date and number:	31 Oct., 2019; HYR1
Project website:	https://jacobphelps.wixsite.com/wilds

1. Outline progress over the last 6 months (April – Sept) against the agreed project implementation timetable (if your project has started less than 6 months ago, please report on the period since start up to the end September).

Output 1: There is a “best practice” standard available for IWT sanctions (civil, administrative and criminal)

Data collection, analyses and outputs for these are complete and introduced into the Legal Atlas online platform. The results are now being applied to guide the analysis of IWT offenses in Yemen, Ethiopia and Somalia, as part of Legal Intelligence for Cheetah Illegal Trafficking (LICIT) Defra-funded project, and will be presented at their workshop in Somaliland (March 2020).

There is one public-facing output related to “best practices”, as a resource for anyone working on IWT/conservation legal-regulatory frameworks and sanctions (Activity 4.4). This draft is complete and being formatted. However, we are debating whether to release it as a report or whether it can become an academic publication, which we believe would be preferable to introducing it as a credible approach/tool.

Output 2: The legal and technical clarity and resources are available to facilitate development of IWT civil liability damage claims.

We have formalised our approach to coming up with damage claims, with further deliberation within the team (building on Activity 2.1) and new inputs from outside experts and NGOs (Activity 2.2). We now have a framework that we are using as the basis for a publication (Activity 4.5), our guidelines on how to calculate damage claims (Activity 2.4) and training resources (Activity 2.5). We are also using this framework to reflect back on historic IWT cases (Activity 2.3) and—most importantly—for collecting data on our specific legal case that we will litigate (Activity 5.4).

Importantly, in order to apply this framework, we need to consider how it is constrained by what is possible under Indonesian law. We know that, in principle, these types of lawsuits are possible in Indonesia, but have encountered additional legal questions that needed to be addressed in order to ensure that our proposed suits can be successful in court. Significantly, some of these questions have come from the Director General of Environmental Enforcement in the Min. of Environment and Forestry (MoEF), who is the stakeholder responsible for deciding if the government can/should pursue these types of cases as a plaintiff. We have

responded with additional 2 legal briefs, which he is currently considering, and will now also inform our guidelines (Activity 2.4) and training resources (Activity 2.5).

Output 3. There is a body of Indonesian prosecutors, experts and judges able to operationalise civil liability cases for IWT, with the guidance to allow them to account for environmental and socio-economic dimensions.

We have also made progress in our research collaboration with the MoEF, notably now actively engaging researchers at the Indonesian Institute of Sciences (LIPI) and the Conservation Agency (BKSDA) of the Ministry of Environment and Forestry in Medan and West Kalimantan. These new collaborations (described in Section 2a) have added on significant effort and bureaucracy, but mean that government agents are now a meaningful part of WILDS. They have helped to inform the new framework (mentioned above) and are supporting data collection.

We have made specific progress with our plans to interview judge about their views, which are needed to understand how our proposed lawsuits are likely to be received (Activity 3.2). Given the complexity of interviewing judges, we have collaborated with a legal psychologist to develop a unique interview instrument that involves a mock IWT case. This instrument has been developed, tested and the first interviews are currently started, with the support of the Supreme Court's Judge Environmental Training Centre. As part of this, we have also strengthened resources with the Centre, and they are receptive to the training resources we generate (Activity 3.1).

Output 4: Indonesian and international legal and environmental communities are aware of emerging standards for IWT sanctions and the potential to quantify environmental harm from IWT, including for use in civil liability suits.

We have recently presented WILDS at 3 venues (Activity 4.7): University of Indonesia's Law Conference, University of Michigan's Sustainability and Development Conference, and the BIOVAL Workshop led by the EU Forum of Judges for the Environment. We have also started discussion with an NGO in Sri Lanka, which is interested in pursuing similar legal strategies there.

We have made progress on the 2 key academic outputs that help to underpin the project and help lend legitimacy to our approach, including a draft publication on IWT typology and sanctions (Activity 4.4) and on damage claims for IWT (Activity 4.5). These, along with our other outputs (e.g., Activity 2.4), will form the basis for outward communications in Y3 (e.g., Activities 4.1-4.3).

Output 5: A pioneering civil liability for IWT harm "test case" is developed using the project resources.

Key to the project is our actual IWT lawsuit. As mentioned in the AR and Section 2a, identifying viable cases has been a significant challenge (Activity 5.2). We returned to Medan and West Kalimantan Provinces for further follow-up with government and NGOs in Aug/Sept., and have finally identified 4 viable cases (Activity 5.3). We aim to prosecute at least 1 of these, but are preparing for as many as possible to ensure resilience. Importantly, these cases will be *much* stronger if filled by either government or a local NGO (rather than Auriga). We have invested considerable effort into meeting with the related stakeholders (Activity 2.2): the main Government body is interested but preoccupied, and some NGOs are reluctant due to local politics and violence (described in Section 2a). We have, however, identified at least 1 solid which we are prioritising. We have identified a preliminary list of types of harm in that case, and have just started to collect data for this case in cooperation with LIPI and local contacts (Activity 5.4/2.6, 5.5), although we are behind schedule on this process. We will, however, be prepared to submit a case in Y3 (Activity 5.6, 5.7).

Beyond these, and as described in Section 2a, much of our time has also be taken with accommodating the new partners (meetings and travel outside Jakarta, additional paperwork, contracts), at the request of the Indoensian Government

2a. Give details of any notable problems or unexpected developments/lessons learnt that the project has encountered over the last 6 months. Explain what impact these could have on the project and whether the changes will affect the budget and timetable of project activities.

We have faced some challenges/delays, most of which were communicated in the approved budget change request form. These have not upset our ability to complete the project, but necessitate increased time and some delays.

- **Bureaucratic delays:** The delay processing JPhelps' research permit was caused by changes to the online application system and a new law on foreign researchers. As part of this, the government also required us to adopt two additional Indonesian collaborators, the Indonesia Institute of Sciences (LIPI) and the Conservation Agency in West kalimantan (BKSDA Kalimantan Barat). This has made the project stronger, but added significant delays and complexity.
- **Political uncertainty:** The political situation in Indonesia is currently complex, including protests and significant disruption for civil society. This is extending to the Ministry of Environment and Forestry (MoEF). This means that our colleagues have been uncertain of how things will change in the coming months, and so unwilling/unable to make near-term commitments. We expect that greater political certainty in 2020 may make collaboration easier.
- **Forest fires:** The 2019 peatland wildfire season has been especially bad, and many stakeholders in NGOs and government has been consumed with related efforts.
- **Case identification:** Identifying legal cases to pursue has been significantly more challenging than expected. This is for a number of reasons. Notably, the vast majority for IWT cases prosecuted in Indonesia target small-scale actors, while the legal tools we are exploring are appropriate only for large-scale actors (e.g. organised crime). As such, we have had to do a great deal of additional work and networking to identify viable cases.
- **Identifying NGO plaintiffs to lead cases:** Several barriers have made it hard to recruit NGO plaintiffs, despite their reported enthusiasm for the approach.
- **Legal complexities:** Our project is innovating new legal strategies. While we have based these on a thorough understanding of Indonesian law, and collaboration with relevant in-country experts, we have encountered unexpected challenges associated with legal technicalities. Indeed, part of the project objective is to help navigate these and provide greater legal certainty. However, that process is simply taking longer and more effort than we anticipated.

2b. Have any of these issues been discussed with LTS International and if so, have changes been made to the original agreement?

Discussed with LTS:	Yes (in budget change request form)
Formal change request submitted:	Yes
Received confirmation of change acceptance	Yes

3a. Do you currently expect to have any significant (e.g. more than £5,000) underspend in your budget for this year?

Yes No Estimated underspend: £

3b. If yes, then you need to consider your project budget needs carefully. Please remember that any funds agreed for this financial year are only available to the project in this financial year.

If you anticipate a significant underspend because of justifiable changes within the project, please submit a rebudget Change Request as soon as possible. There is no guarantee that Defra will agree a rebudget, so please ensure you have enough time to make appropriate changes if necessary.

4. Are there any other issues you wish to raise relating to the project or to IWT Challenge Fund management, monitoring, or financial procedures?

NA

If you were asked to provide a response to this year's annual report review with your next half year report, please attach your response to this document.

Please note: Any **planned** modifications to your project schedule/workplan can be discussed in this report but **should also** be raised with LTS International through a Change Request. **Please DO NOT send these in the same email.**

Please send your **completed report by email** to IWT-Fund@ltsi.co.uk. The report should be between 2-3 pages maximum. **Please state your project reference number in the header of your email message e.g. Subject: IWT001 Half Year Report.**