

The Status and Improvement of Pet Management of Non-State Key Protected Wildlife

Mingxuan Li

School of Marine Law and Humanities, Dalian Ocean University, Dalian, China

ABSTRACT

According to the Wildlife Protection Law, protected wildlife refers to rare and endangered terrestrial and aquatic wildlife and terrestrial wildlife of important ecological, scientific and social value. Wild animals are protected with the precious and endangered degree and value of wildlife, and non-such wildlife is not within the protection scope stipulated in the Wildlife Protection Law. At the same time, there is also a vacuum in the illegal operation and utilization of wildlife under non-state key protection. As an emerging way of management and utilization of non-state key protected wildlife, pet management is controversial in legal regulation. Through the analysis of the present situation of the state protection wildlife, combing the cause of the present situation, and combined with the wildlife protection law and the regulations on the implementation of terrestrial wildlife protection (hereinafter referred to as the regulations), put forward reasonable countermeasures, aims to improve the legal system of wildlife protection, improve the status of the state protection wildlife protection, comprehensive protection of wildlife in our country.

KEYWORDS

Pet Management; Management and Utilization; And Wildlife Protection.

1. INTRODUCTION

The current situation of pet management of non-state wildlife protection presents a complex situation. On the one hand, with the improvement of people's living standards and the prosperity of the pet market, some non-state key protected wild animals are raised and managed as pets. These animals may include some common reptiles, birds, etc. However, this phenomenon of pet management also brings a series of problems. On the other hand, there are certain restrictions and requirements in laws and regulations on the pet management of wildlife under non-state key protection. In accordance with the Wildlife Protection Law of the People's Republic of China and other relevant regulations, those who sell or use wildlife that are not under special state protection shall provide certificates of legal sources such as hunting, import and export, and quarantine certificates shall be attached according to law. At the same time, those who operate and use wildlife not under special state protection or their products shall apply to the administrative department of industrial and commercial administration (market supervision) for registration, that is, to obtain the industrial and commercial business license according to law. The rules aim to protect wildlife resources and prevent illegal hunting and trading. However, in practice, there are the following problems that will affect the development and improvement of the pet management of non-state key wildlife protection. Based on these problems and the current situation, analyze the reasons and put forward perfect suggestions.

2. THE STATUS QUO OF PET MANAGEMENT OF NON-STATE KEY PROTECTED WILDLIFE

The relevant cases of pet management of non-state key protected wildlife were searched, and the keywords "non-state key protected wildlife" and "pet" were used as keywords. By June 2024, there were 13 online judgment documents, 10 first-instance judgment documents and administrative judgment documents. Among these ten cases, there are five documents related to the pet management of non-state key protected wildlife. The basic facts involve the trading, trading or raising of wildlife under state key protected animals without knowledge; the other is the illegal hunting, trading or trading even though they know that they are under state key protected animals. According to the ten judgment documents, the following status quo is summarized:

(1) The number of cases is relatively small

As one of the websites with the largest stock of documents in China, the judicial documents website can only retrieve ten available documents and cases related to the pet operation of non-state key protected night animals. The keywords were "pet management" and "non-state key protected wildlife", and there were no case documents meeting the requirements. The 13 case documents could only be retrieved using the keywords "pet" and "non-state key protected wildlife". This can show that there are few cases of non-state key protected wildlife management as pets in China. It reflects the lack of attention of the public and relevant departments to the pet management of non-state key wildlife protection.

(2) Only the ecological environment compensation recognition shall be adopted for the rare wildlife

Of the only ten cases, only five punished the perpetrator for the ecological environment. These five thousand li are in the criminal behavior threatening the protection rights of rare and precious wild animals. In cases where no rare wildlife rights were involved, he was sentenced to imprisonment and a fine, or no criminal case.

(3) Illegal acts are not easy to detect

In the face of criminal infringement of wildlife rights and interests, the relevant departments to take actions to lag behind the criminal behavior. Through the criminal facts of the ten cases, it can be seen that the criminal behavior and criminal mode of the criminals are hidden and imperceptible. Criminals communicate with other personnel through wechat and other procedures, which makes the regulatory authorities unable to find out the criminal preparation of the criminals in the first time. At the same time, the criminals have a keen vigilance when carrying out illegal hunting and trading on the spot, and achieve their criminal purposes through cooperation and cover-up. Due to the wide range of wildlife habitats and the shortage of supervisors, these illegal activities are not easy to be detected by regulators and stopped in time.

(4) The punishment intensity is slight

In all the ten cases, only three cases were sentenced. The most serious criminal law was Duan Shengcang and Lan Yang illegally purchased, transported, sold and sold rare and endangered wildlife products. The criminal was sentenced to two years in prison with a two-year reprieve for illegal trading of state protected wildlife. In other cases, the judgment only stays in fines, apology and other punishments, exempt from criminal punishment. Wildlife, too, are protected by the Wildlife Protection Law and other relevant laws, but were only sentenced to two years in prison for infringing on the rights and interests of wildlife under second-class national protection. Although there are fines, ecological damage compensation and other ways, but compared with the interests sought by people who illegally hunt wildlife, these fines and restoration costs are insignificant and do not serve the purpose of punishment.

(5) The punishment subject is single

In cases involving non-state wildlife, the subject of punishment is often the buyer and seller of wildlife. However, in the process of the whole illegal act, the negligence of the market and the government management is also an important reason for the infringement of the rights and interests of non-state key wildlife protection. The markets that provide the platforms, including offline trading markets and pet stores, online trading platforms and social software, are all illegal ways of behavior. However, in the process of corresponding supervision and management in the pet management of non-state key protected wildlife, the government leads to some illegal personnel fishing in troubled waters and using reasonable trading as an excuse to cause damage to the rights and interests of wild animals.

(6) inadequate understanding of the directory by the public

The List of Wildlife under Key State Protection (hereinafter referred to as the List) is a list of rare and endangered wildlife under key state protection jointly formulated and issued by the former Ministry of Forestry and the Ministry of Agriculture of China in accordance with the relevant provisions of the Wildlife Protection Law. The directory is published on the official website of China's former Ministry of Forestry and the Ministry of Agriculture, and the latest version is currently updated in 2021. With the increasing prevalence of wildlife pets, more of the public may face this situation. The information disclosure channels of the Directory do not go deep into the various procedures, places, books and periodicals that the public often contact in daily life, but only in Baidu Encyclopedia.

To sum up, through the phenomenon reflected by the current situation of pet management of non-state key protected wildlife, it can be clearly seen that China treats the state key protected wildlife and the non-state key protected wildlife differently. Although they are quite different in economic benefits, they both belong to natural resources and should enjoy equal ecological benefits. If the national legislation and law enforcement only pay attention to the economic benefits of wildlife and ignore their ecological benefits, it will go against the basic strategy of sustainable development in China, lead to ecological imbalance, and cause irreversible and serious damage to the natural ecological environment.

3. THE REASON OF THE CURRENT SITUATION OF NON-STATE KEY PROTECTED WILDLIFE PETS

(1) The application of the law is sparse and scattered

The Wildlife Protection Law (revised in 2022) adds the legislative goal of promoting the harmonious coexistence between man and nature to the original legislative purpose, which is the result of rethinking the relationship between man and nature and re-examining the legal system of wildlife protection in the new stage of social development. However, in Article 2, the scope for the wildlife covered by this Law shall continue the provisions of "rare and endangered terrestrial and aquatic wildlife and" three animals "", and the principle of classification and classification protection shall be strictly implemented. To some extent, this deviates from the legislative goals of giving priority to wildlife protection, maintaining biodiversity, building ecological civilization and promoting the harmonious coexistence between man and nature.

The regulations on non-state key wildlife protection are not mentioned in the Wildlife Protection Law, and only the corresponding terms are mentioned in the Regulations, without giving much explanation. Chapter V is the provisions on the administration of the operation and utilization of wildlife. Only one of the seven provisions is the provisions on wildlife not under special state protection, and is mixed with the provisions on wildlife under special protection. In addition to the lack of legal provisions, there are also vague provisions in the operation and utilization of wildlife under non-state key protection. Article 25 of the Regulations stipulates that those who operate and utilize wildlife not under special state protection or their products shall apply to the administrative department for industry and commerce for registration. The regulation only states that the need to use non-state

wildlife needs to register with the administrative department, but does not specify the relevant procedures and the scope of operation and use. The Wildlife Protection Law does not have any provisions on non-state key wildlife protection. Non-state key protection wildlife is the largest proportion of wildlife, but the Wildlife Protection Law has no relevant provisions.

(2) Lack of supervision by regulatory departments

According to the current relevant laws and regulations of China, according to the habitat distribution of wildlife, the forestry and grassland department and the fishery department under The State Council are respectively in charge of the protection and management of terrestrial wildlife and aquatic wildlife. At the same time, the use of wild animals involves a wide range of activities, usually including hunting, artificial breeding, sale, purchase, transportation, delivery and other business activities, there are also illegal transactions, illegal business operations, which shows that the management of wildlife use is a systematic project coordinated by multiple departments. It includes many administrative departments covering the whole utilization chain of wildlife, including the forestry and grassland departments, the fishery departments, the market supervision departments, the health supervision departments, the health supervision departments, the public security departments, the transportation and transportation departments.

These departments work together to form a cooperative management system for the use of wildlife. While playing a management role, the distribution of responsibilities is also unclear, which is easy to show a chaotic state. At present our country non-state key protection wildlife supervision and management in one, the supervision work is the only way to improve the efficiency of management system, such as in the process of wildlife management, forestry and grassland department have the right to formulate the list of wildlife, both at the same time for the wildlife resources utilization license can also be examined and approved, the unity of supervision and management mode cannot guarantee the implementation of the legal system.

(3) unreasonable division of responsibilities

In the legal documents, it can be found in the case that only the parties are responsible for the buyers and sellers. Admittedly, the buyer and the seller, as the direct related of the illegal behavior, bear the responsibility, each case also more or less to the buyer and the seller to take fines, public apology and other penalties. However, after looking at similar illegal acts, it can be found that there are two key factors besides both buyers and sellers.

The first is the market. All cases need to be traded through the market, which provides a platform and a way for illegal activities. Trading markets are hidden, often hidden under ordinary market transactions, such as selling substandard wildlife in pet stores. Compared with offline market transactions, the concealment and diversity of online trading methods are even more obvious. Transactions are conducted through social networking software such as WeChat and a related pet trading APP. The lack of regulatory system in the market is also one of the causes of illegal activities. The second is the government. Both the Wildlife Protection Law and the Regulations on the Implementation of the Protection have relevant provisions on the pet operation and utilization of wild animals, and the government has the obligation of supervision and management. Therefore, in the emergence of illegal acts, is also the relevant government departments of the supervision and management of dereliction of duty. Therefore, for the pet operation of non-state key protection wildlife, in addition to the main responsibility of the buyers and sellers, the market parties that provide the transaction and the relevant government departments should also be started and held accountable.

(4) The directory system is not unified

There is a lot of overlap between the local special protected wildlife list and the state special protected wildlife list. Legally speaking, the national key protection list, the local key protection list and the “three have” list. The list of State Key Protection aims to protect wildlife under first class and second class national key protection. The list of key local protection refers to the list of wildlife

under the special protection of provinces, autonomous regions and municipalities directly under the Central Government. These wildlife are not listed in the National Key protected Wildlife List, but they have special ecological, scientific or social value in the area where they are located, so they require targeted protection by local governments. The formulation, adjustment and publication of the directory shall be completed after scientific evaluation organized by the people's governments of provinces, autonomous regions and municipalities directly under the Central Government and reported to The State Council for the record.

Legspeaking, the three lists should not overlap, and the local key wildlife list should play its targeted role in the protection and management of local endemic or important wildlife. However, due to the change and reproduction of wild animals, the population number and rarity degree are changing at any time. This leads to a change in the three directories. However, the update period of the state key protected wildlife list is five years, which inevitably leads to the duplication of the three lists, which is inconsistent with the purpose and definition of its establishment.

4. PERFECT THE PET MANAGEMENT OF NON-STATE KEY PROTECTED WILDLIFE

(1) Expand the scope of wildlife protection

For the management and utilization of non-key protected wildlife, the protection scope of the Wildlife Protection Law has been unable to meet the practical needs. Therefore, we should focus on the ecological value of non-key wildlife protection, redefine the existing scope of legal protection and management in the legal provisions, and pay attention to the legal regulation of non-key wildlife protection. According to this idea, we should connect the legal system of non-key wildlife protection, investigate the relevant external legislation, appropriately expand the lagging definition of "wildlife", and consolidate the foundation for the legal regulation of the use of non-key wildlife protection.

Therefore, the provisions of Article 2, Paragraph 2 of the Wildlife Protection Law should be improved to " Wildlife protected under the provisions of this Law refer to rare and endangered terrestrial and aquatic wildlife, as well as terrestrial wildlife and other wildlife of important ecological, scientific and social value."Every animal has its ecological status and ecological function in nature, and has its necessity of existence. Putting all wild animals into the protection scope of the law is conducive to maintaining the integrity of the biological chain between the whole wildlife species and the balance between species.

(2) Improve the management system of relevant departments

First of all, the management of wildlife needs the coordination of various departments. Straout the responsibilities of each department and clarifying the division of labor of each unit is the first step in the scientific management of wildlife utilization behavior. We should accelerate the solution of the current management mode integrating management and supervision, and give these two functions to different departments so as to play a restraining role and further improve the management efficiency. In addition, the management category of all parties is refined to avoid overlapping responsibilities such as "prevarication" and "multiple management". Secondly, it must be made clear that the protection and management of wildlife is a systematic project that requires the joint action of multiple departments. It is very necessary to establish a coordination mechanism among various departments, and promote the establishment of diversified governance models, mobilize the forces of various departments, and form a joint force of legal regulation. Thirdly, supervision should be strengthened within the organs, and multi-channel supervision over the illegal use of wild animals should be introduced, including public supervision and judicial supervision. At the same time, attention should be paid to improving the management ability and establishing an internal assessment mechanism of the department.

At the same time, referring to the Russian public supervisor mechanism, the establishment of a special non-state key protection wildlife supervision mechanism should first set up a supervision agency, and set up a special non-state key protection wildlife supervision agency at the national or local level to be responsible for supervising the implementation of relevant laws and the protection of wildlife. Secondly, we should recruit and train supervisors: recruit supervisors with professional knowledge and enthusiasm from all walks of life, and conduct systematic training, so that they have the ability and quality required to perform their duties. Thirdly, the supervision responsibilities and powers should be defined, a detailed list of supervision responsibilities and powers should be formulated, and the supervision scope, methods and procedures of supervisors should be defined to ensure the standardization and effectiveness of the supervision work. Finally, a reporting and reward mechanism should be established to encourage the public to actively report illegal acts, and give certain rewards to those who report is true, so as to stimulate the public's enthusiasm for participation. At the same time, we should strengthen the cooperation with other departments, and establish a close cooperation mechanism with forestry, public security and environmental protection departments to jointly crack down on illegal acts and form a joint force for protection.

(3) Expand the scope of the subjects of responsibility determination

The first is the responsibility of the acquisition and the seller. Including units or individuals that have obtained industrial and commercial business licenses according to law and have been approved to register for the purchase and sale of wildlife under non-state key protection. However, it is necessary to ensure that the wildlife has proof of legal origin, such as hunting, import and export. The second is the responsibility of the artificial breeder. Units or individuals engaged in the artificial breeding and sale of non-state key protected wildlife also need to obtain the corresponding approval and registration, and ensure that the breeding activities meet the requirements of laws and regulations. Another time is the responsibility of the transportation party. Units or individuals responsible for transporting non-state key protected wildlife out of the county should hold legal source certificates and quarantine certificates to ensure the legality and safety of the transportation activities. Finally, the responsibility of the market supervision and administration departments and other relevant departments. These departments also assume the supervision responsibility in the operation and utilization of non-state key protected wildlife, responsible for supervising and checking whether the operation and utilization activities comply with the provisions of laws and regulations, and punishing illegal acts.

(4) Building a reasonable list of wildlife protection

The first step is to simplify the wildlife directory management standards. From "multi-department" cooperation to "single-department" leading transformation. At present, the design of the "two-way cooperation and joint reporting" adopted by the national key protection wildlife directory system in China cannot actually realize the function of wildlife protection, so "single department" should replace the current "multi-department" design. The leading power of the list may be handed over to the forestry and grassland authorities, and the fishery authorities may play a supporting role.

Secondly, strengthen the floating system of wildlife protection list. For "endangered", we can draw on the experience of the United States and put forward several types of identification standards, and we can also clearly stipulate in the law that a convention or international standard is apply and fix it. For "precious", it is still necessary to be endangered, because "precious" wild animals are likely to be overexploited species, although they do not appear to be endangered yet. Therefore, the identification of "precious" should be based on the perspective of endangered nature, taking into account its ecological, social, scientific, economic and other values, and clarifying an appropriate standard after integrating various factors.

5. EPILOGUE

The existence of non-focused protected wildlife in the biological chain is indispensable. We should focus on the ecological value of wildlife and recognize the limitations of the current legal system on the regulation of non-key wildlife use behavior. We should realize that the key protection of wildlife legal regulation should gradually close to the key protection of wild animals, should gradually to the commercial purpose behavior more strict regulation believe that as long as with the insufficiency, put forward feasible perfect scheme, our country for the key protection of wildlife use legal regulation system will be more perfect and comprehensive, so as to further promote the construction of the legal system of wildlife protection in our country.

REFERENCES

- [1] Yang Hengxi. A comparative study of the Sino-American wildlife list system [J]. Journal of Heilongjiang Vocational College of Ecological Engineering, 2024,37 (01): 1-5 + 44.
- [2] Jiang Chenguang. Legislation on the utilization standard of terrestrial wildlife in China [D]. Northwest Normal University, 2021.
- [3] Xu Jiansu. Problems and institutional improvement in wildlife protection practice [J]. Legal System Expo, 2022, (22): 123-125.
- [4] Song Xianfeng, Jiang Chunyan. The Wildlife Protection Law of the People's Republic of China will come into force on May 1st [J]. Rural Technology, 2023,14 (09).
- [5] Zhang Yunyun, Zhang Lijuan. Thoughts on the management of wildlife epidemic prevention and quarantine [J]. Friends of the Rich Farmers, 2018, (09): 125.
- [6] Tang Shaojun, Wei Yu. On the problem inspection and improvement path of wildlife directory system [J]. Environmental Law Review, 2022, (01): 102-119.
- [7] Chen Zhuangyu. Thoughts on wildlife resource utilization system in the critical view of non-anthropocentrism [J]. Journal of Harbin University, 2024,45 (02): 70-74.
- [8] Cai Shaoyan. Historical investigation of wildlife protection and standard utilization in New China [J]. Studies on Contemporary Chinese History, 2023,30 (02): 137-151 + 160.
- [9] Wang Jinjun, Jiang Peiyan. Refactoring the regulatory logic of wildlife trading in the post-epidemic era [J]. Journal of the Party School of the CPC Hangzhou Municipal Committee, 2020, (05): 31-36.