

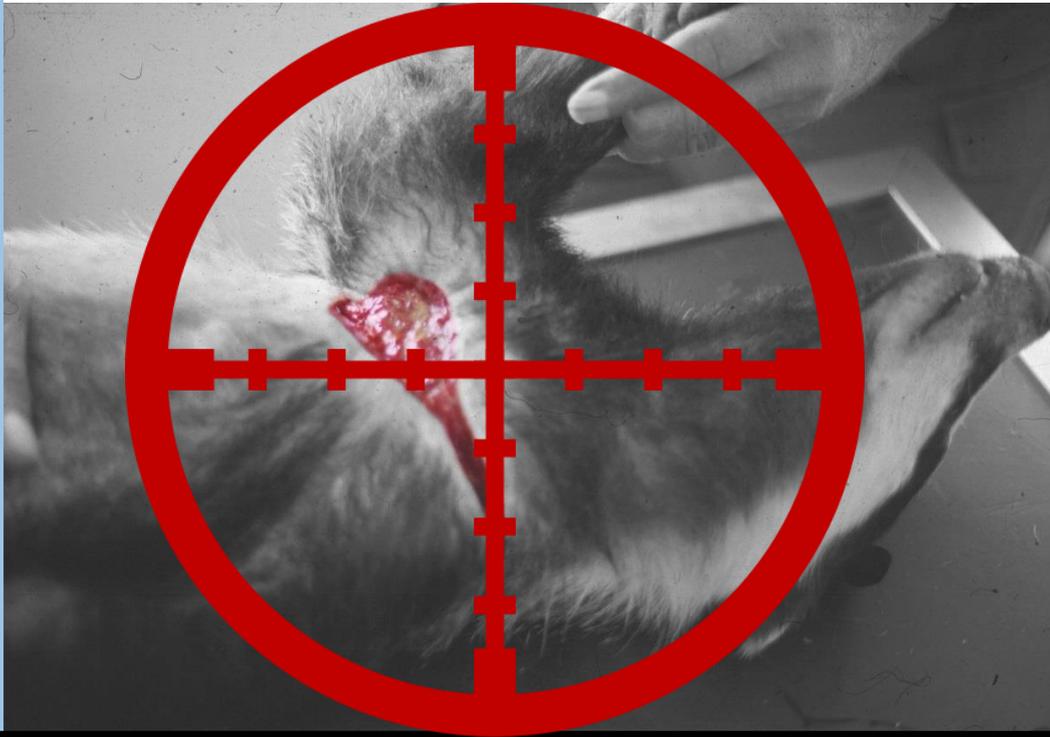
NATURAL INJUSTICE:

Paper Two

ELIMINATING WILDLIFE CRIME IN SCOTLAND

A report
by Scottish Environment LINK

February 2015



Report citation: Scottish Environment LINK (2015). *Natural Injustice: Paper 2. Eliminating Wildlife Crime in Scotland*. Scottish Environment LINK, Perth, Scotland

Contents

| | |
|---|-----------|
| Summary - List of recommendations | 3 |
| 1 Introduction, background, definitions and distinctions | 6 |
| 1.2 What is wildlife crime? | 6 |
| 1.3 What is the extent of wildlife crime? | 9 |
| 1.4 Why should we be concerned? | 10 |
| 1.5 Distinction from animal rights and welfare offences | 10 |
| 1.6 Distinction from poaching offences | 10 |
| 2 Who is committing wildlife crime? | 12 |
| 2.2 Egg collectors | 12 |
| 2.3 Badger baiters and killers | 12 |
| 2.4 Freshwater pearl mussel thieves | 13 |
| 2.5 Some shooting estates | 14 |
| 2.6 Wildlife crime on rivers | 15 |
| 2.7 Other minorities | 16 |
| 3 The policy tools for eliminating wildlife crime | 17 |
| 3.2 Adequacy of the criminal law | 17 |
| 3.3 Enforcement of the criminal law | 17 |
| 3.4 NGO involvement in cases | 21 |
| 3.5 Political leadership | 21 |
| 3.6 Prevention measures | 23 |
| 3.7 Land reform | 24 |
| 3.8 Biodiversity strategy | 25 |
| 3.9 Social considerations – codes and fears in communities | 25 |
| 3.10 Wild species law | 26 |
| 4 Conclusions | 28 |

Summary - List of recommendations

Recommendation 1: Government and the wildlife NGOs should urgently discuss, agree and introduce measures to address under-recording; improve the standards for reporting; and introduce consistency across all areas of recording wildlife crime.

Recommendation 2: A three-tier classification system should be introduced for use by all agencies, assigning a widely agreed and accepted “confirmed”, “probable” or “possible” category to each wildlife crime case, and grading information according to established police systems.

Recommendation 3: The Wildlife Crime Annual Reports should include, henceforth, an evaluation of the full extent of wildlife crime in Scotland.

Recommendation 4: Police Scotland should review the full complement of Wildlife Crime Liaison Officers (WCLOs) and Wildlife Crime Officers (WCOs) in terms of the basic number of whole-time-equivalent officers dedicated to this area of work. The basic complement dedicated to this area of work as its priority should be stated publicly, and used as a baseline – to be increased if it proves ineffective.

Recommendation 5: The complement of WCLOs and WCOs should be rigorously targeted by Police Scotland at the areas where wildlife crime is known to be greatest. Consideration might be given to the feasibility of establishing a national wildlife crime rapid response unit, to be comprised of multi-agency partners who could respond to reports of serious wildlife crime.

Recommendation 6: Police Scotland should agree a wildlife crime strategy, in consultation with the wildlife NGOs. The strategy should be intelligence led and carefully targeted at the areas of criminality.

Recommendation 7: Police Scotland should improve the basic wildlife crime training modules for all police cadets at the Scottish Police College and ensure compulsory, on-going training for all appointed WCLOs and WCOs.

Recommendation 8: The Crown Office and Procurator Fiscal Service (COPFS) should urgently investigate why such a high percentage of cases fail to be prosecuted, and review arrangements for the allocation of its resources and training.

Recommendation 9: Follow-up investigations of wildlife crime by Police Scotland should be carefully monitored by COPFS and the expertise of

partner organisations should be consistently and fully used. Results of investigations should be fed back to complainants.

Recommendation 10: The Wildlife Crime Annual Reports should include cumulative figures for prosecutions brought and the resultant rate of convictions.

Recommendation 11: Stiff sentences should be asked for by COPFS to allow for proper consideration of deterrent effect by the courts, and the consistency of sentencing should be carefully monitored by the appropriate authority.

Recommendation 12: The Scottish Government should urgently institute confidence building measures and improved partnership working between Police Scotland, COPFS and the wildlife organisations, with clear instructions that the latter are not to be excluded from the process of investigation or prosecution, and their expertise and information sources should be properly and fully utilised in the fight against wildlife crime.

Recommendation 13: If the partnership approach is to continue, the Scottish Government should commission research to assess the true extent of the different types of wildlife crime in Scotland and remove any group tainted significantly by association with any area of wildlife crime from PAWS.

Recommendation 14: The Scottish Government should, immediately remove poaching from the PAWS remit and deal with it as a distinct and separate matter.

Recommendation 15: The Scottish Government should ensure that preventative measures are assessed rigorously - and targeted effectively.

Recommendation 16: The Scottish Government should consider how wildlife crime might become a material consideration within the land reform programme, and how it can be made into a major element within the statutory Land Use Strategy.

Recommendation 17: The Scottish Government should consider how any wildlife crime directly connected to land use on a specific piece of land might lead, consistently, to the withdrawal of subsidies associated with land ownership – and should publish, in its annual wildlife crime reports, a summary of Single Farm Payment and other penalties imposed as a result of wildlife crime.

Recommendation 18: The Scottish and UK Governments should consider how any wildlife crime directly connected to a land use on a specific piece

of land might lead to the withdrawal of fiscal privileges associated with land ownership, as an additional sentence available to the courts.

Recommendation 19: The Scottish Government should commission research into codes or fears in individuals and communities around reporting wildlife crime in Scotland, and Police Scotland should consider trials for improving anonymised reporting for wildlife crime specifically.

Recommendation 20: Scottish Government and Parliament should consider undertaking a comprehensive review, and possibly a consolidation, of the laws relating to humans, wildlife and land use.

1. Introduction, background, definitions and distinctions



Figure 1 Rubbish dumped on a badger's sett

1.1 Wildlife crime is a serious problem in Scotland. Despite our reputation as a country at the international forefront in protecting the natural environment; a country where people love and care deeply for our spectacular, varied and beautiful wildlife and habitats, certain categories of our wildlife are regularly persecuted and killed – to the point where entire species are threatened with extinction, or left in an unsustainable state. This situation (with regard to bird of prey persecution) was described as “a national disgrace” by First Minister, Donald Dewar MSP (1998 Vane Farm speech) and it undermines our reputation as a modern country.

This matter of reputation must not be underestimated. It is of economic importance as well as a matter of our environmental and social standing in the world. Tourism is hugely important to

Scotland and research has identified the perception of Scotland as a haven for wildlife as a very major contributor to the list of reasons people come here. Recent campaigns run by Government agencies have leaned heavily on this perception - but the perception could be easily damaged by a spate of reports of wildlife crime in Scotland. For example, the Government and many of the people of Malta believe that their tourism industry has been badly damaged by extensive media reports of wildlife crime there in recent years. Scotland could suffer in much the same manner if we fail to tackle this problem.

The report which accompanies this paper, '**Natural Injustice – Paper 1 - A review of the enforcement of wildlife protection legislation in Scotland**' ('Natural Injustice 1'), was written in response to long-term concerns raised by member organisations of Scottish Environment LINK over the effectiveness of enforcement of wildlife crime legislation. It examines the extent of particular types of wildlife crime in Scotland, considers levels of reporting of these crimes, consistency in recording incidents and looks in detail at four of the major areas of wildlife crime around which there is considerable unease. Conclusions and

recommendations from 'Natural Injustice 1' are included in the broader context of this paper.

The 'Natural Injustice 1' report examines the roles of the key statutory agencies involved in enforcement of the wildlife crime laws, and depicts the ideal follow-up to a reported incident. It then compares this with the reality of enforcement, supported by data provided by LINK members.

With a few notable exceptions, the report paints a less than flattering picture of the efforts of the public agencies to tackle these crimes. It highlights instances of a lack of resources, commitment and experience; procedural difficulties; inconsistent recording of data, communication failures; obstructiveness; and failures to fully utilise available expertise.



Figure 2 This shot Buzzard was found in the back of a gamekeepers Land Rover.

Documented are numerous examples of where opportunities to deal robustly with serial offenders were missed; where searches for evidence were not made; where partner agencies which had played a key role in investigations were side-lined; and where sentences given to convicted offenders were minimal. It paints a picture of instances of wildlife and the public being let-down at almost every stage in the process.

While there are clearly many individuals in the law enforcement and political communities who are wholeheartedly committed to tackling cruel and damaging wildlife offences, and to the enforcement of the law, it is apparent that they are not given the priority and resources required to stamp the bad practices out.

- After 100 years of Parliaments passing laws against wildlife crime, we are not making huge progress in the battle to bring it to an end. A whole range of the offences are described in this paper. They continue to be committed decades after they were made criminal because small numbers of people in distinct sub-cultures seem unable to accept that these are serious criminal behaviours and that committing them is a blatant defiance of the democratic will.
- Attitudes and behaviours towards wildlife and wildlife crime have changed for the vast majority – but not for significant minorities. Those who are committing the crimes are often not brought to account due to a widespread unwillingness to assist the police in identifying those responsible in affected communities.
- These sub-cultures have to be tackled in the long-term and shown that wildlife crime is, demonstrably a serious crime, and that there are victims - including the public. Within these minorities, criminal behaviour remains to be stamped out.
- These minority attitudes and behaviours defy the will of the majority as expressed in parliament. The Scottish Parliament has been exemplary in the past in consciously working towards better wildlife law, but after attitudes to the law are taken into account, enforcement and resources are the main problems.

- Enforcement of the law is ineffective, for a whole raft of reasons – as described in 'Natural Injustice 1' and as summarised below.
- In addition, wildlife crime causes significant economic, social and environmental damage to Scotland – also tarnishing our international reputation and our economy.

1.2 What is wildlife crime?



Wildlife crime is any act or omission, which affects any wild creature, plant or habitat, in Scotland, including acts as described in the 16 pieces of legislation listed in 'Natural Injustice 1'. In addition to this Scottish definition, and given the broad spectrum of wildlife crime and the limited resources available to address it, the National Wildlife Crime Unit (NWCU) prioritises currently;

- Badger persecution;
- Bat persecution;
- CITES (with a focus on ivory, tortoises and traditional medicines);
- Freshwater pearl mussels;
- Poaching (with a focus on deer poaching/coursing; fish poaching and hare poaching); and
- Raptor persecution (with a focus on hen harrier, goshawk, golden eagle, white-tailed eagle, red kite and peregrine).

For Scotland's environmental Non-Government Organisations (NGOs/wildlife organisations) the major wildlife crime concerns are with the persecution of birds of prey, and mammals such as otters and badgers, closely followed by concern for crimes against whales and dolphins, bats and fresh-water pearl mussels. The NGOs have been involved in the detection, reporting, investigation and prosecution of crimes against all these, and other, species.

Crimes committed and dealt with under the Convention on International Trade in Endangered Species (CITES) also fall within the definition of wildlife crime, but in Scotland tackling these crimes have mainly been the preserve of the police and customs agencies.

Wildlife crimes are almost always committed when wildlife is perceived to be in competition with a human interest:

- a) for economic reasons, where there is a direct benefit to the criminal (as in the theft of plants, bulbs, or pearls from freshwater mussels) or where the wildlife is seen to be in competition with a human economic interest (such as the protection and nurturing of valuable game species, or where the protection of bats is seen as competing with a development project); or
- b) for purposes of entertainment (such as badger baiting) - although an economic interest (such as illegal betting) often accompanies the supposedly social objective, or is used to finance the activity (as has occurred when drug dealing has been used to finance egg-collecting).

1.3 What is the extent of wildlife crime?

Wildlife crime differs from crimes of property, or crimes of violence, in that the victim is not directly another person in the community. The victim is wildlife itself – and wildlife cannot report the crime to the authorities. It is, therefore, very difficult to estimate the full extent of wildlife crime. It is mostly committed in the countryside, where low densities of human population lower the chances of the discovery of evidence.

We can assess, nevertheless, the number of cases reported to the police and those brought to the courts, as has been done in 'Natural Injustice 1'. Those who work for wildlife organisations have always maintained that these cases are, however, just the tip of the iceberg and that underneath the reported incidents there is a massive amount of destruction.

We must turn, therefore, to assessments of the scientific evidence available, and it is here that the full extent and impact of the criminal activity begins to become truly apparent.

A considerable number of peer-reviewed scientific studies have demonstrated that the abundance and range of many of the main species which are the target of wildlife crimes are hugely constrained in Scotland. Assessments of the causes of these lower abundance figures are made by using population modelling techniques, including known mortality levels. The results are often devastating. Wildlife crime is the most serious threat to many of our rare and iconic species.



Figure 3 Poisoned Golden Eagle, Skibo, May 2010

This is particularly true of several species of birds of prey, where illegal persecution has been identified as placing a severe constraint on the populations of hen harriers and golden eagles in extensive areas where there is suitable habitat and abundant food supplies, but where intensive management for driven grouse shooting dominates the landscape. These areas are also where, year after year, satellite-

tagged eagles disappear, breeding pairs of harriers vanish early in the season, and any surviving nesting attempts end prematurely.

These crimes are seldom witnessed, and the victims are seldom found. But the scientific evidence is unambiguous. For golden eagles, hen harriers, and many other species, the crimes we know of are, indeed, just the tip of the iceberg of wildlife crime.

1.4 Why should we be concerned?

Wildlife crime strikes a chord amongst much of the wider public, as witnessed by the high profile media coverage that the issue can achieve. Within the membership of Scottish Environment LINK we are concerned about wildlife crime because it affects the very structure of the countryside and affects populations of some of our most endangered species. People who kill or take animals and plants are making a direct assault on the balance of nature in the environment in which we live. Wildlife crime is a gratuitous added burden on top of the ordinary pressures we already place upon the natural world by the carelessness of our stewardship and exploitation of the environment around us.

In extreme cases, this criminal activity can be a severe threat to the very existence of important species – and the loss of biodiversity is a severe threat to the human species itself, as we continue to degrade the common space we share with all of the other species. There is a long list of species that have been wiped out in the past in Scotland where they competed with human interests – white tailed eagles, red kites and ospreys to mention only some of the bird of prey species. Now, once again in many areas, their populations are threatened by wildlife criminals - after their careful and committed reintroduction, and the considerable investment of resources by Government and the NGOs, both representing the public interest.

Environmental NGOs and their members are also frustrated because wildlife offences seem to be treated as only a low priority crime – by comparison with other serious crimes (such as crimes of human violence or theft), or with crimes which are easily detected (such as speeding and other road traffic offences). It is our view that wildlife crime is a serious crime, all too often carried out by perpetrators with contempt for the law, brought about by the low chance of detection, the laxity of enforcement, and the low penalties imposed on those who are convicted.

1.5 Distinction from animal rights and welfare offences

Many of the arguments in this paper concern cruelty to animals in the form of acts and omissions which cause pain, injury and death. A distinction has been made between wild animals and domesticated animals (pets and agricultural stock). Although there is a significant overlap in the underlying attitudes towards animals and their protection, this latter group is covered by different pieces of legislation and law.

Environment NGOs share many of the concerns of those working in the fields of animal rights and animal welfare, but this paper has specifically been limited to crimes against wild animals, as this is the area of LINK members' remit and expertise.

1.6 Distinction from poaching offences

A further distinction in the terms of human treatment of animals has been considered in writing this paper. Our concern is largely with wild animals outside the traditional categories of game species for hunting. Cruelty or crime involving the game species (and to both freshwater and marine fish species) has been excluded. These categories too, are legally distinct and covered by different laws and legislation.

While there is a strong overlap between the areas of hunting and other wildlife crimes, the purpose of this paper is not to take a position for or against hunting. We make a clear distinction between wildlife crime and poaching – the offence of illegally taking game species in defined areas of land or water. Poaching offences are, fundamentally, against the shooting, fishing or land rights of owners and managers, and in our view, not in the same category as the persecution of wildlife per se.

2. Who is committing wildlife crime?

2.1 As stated in the introduction, it is clear that wildlife crimes as defined are being committed only by small minorities of the population - the days when egg-collecting, for example, was still justified as a traditional hobby for masses of children have, thankfully, long gone. Most wildlife crime is bound up in attitudes which have survived from the days when the pressures of human population on wildlife were much less great – and the scientific and practical evidence of those pressures was not available or fully understood and appreciated. But attitudes have not changed in some quarters as they have amongst the majority of the population – or amongst the group that once collected wild bird eggs. In this chapter, we describe just some of the types of wildlife crime and the perpetrators, before we move on to describe the public policy options for changing attitudes and behaviours in Part 3.

2.2 Egg collectors

The rise in interest in natural history in the eighteenth and nineteenth centuries led to a craze for collecting specimens, including birds' eggs, which were attractive and relatively easy to display. It was seen as an entry level to natural history that children could participate in. Without a full understanding of the impact of the hobby, egg collecting began, along with other reasons for wildlife population declines, to impact on the numbers of the birds – and, as the rarer the egg, the more prized it was, this led to the largest impact being felt by our rarest species of bird.

In the twentieth century, greater understanding of the damage this caused led to the decline of the hobby, and it was eventually no longer just unacceptable but was declared a criminal activity by parliament, after attitudes had changed sufficiently. A small number of collectors continued, however, and their behaviour was of an obsessive nature. The collected eggs had no value other than pride amongst a shrinking community of determined collectors.

In recent years the activity has been reduced to tiny numbers of collectors. Jail sentences handed out for repeated offences seem to have persuaded almost everyone to abandon the behaviour. Much of this can be attributed to the success of Operation Easter - a campaign led by the police, but also using the expertise provided by the National Wildlife Crime Unit, and the RSPB. It continues to target egg collectors by sharing intelligence and monitoring their activities, as well as raising public awareness of suspicious behaviour. This excellent example of good partnership working began some 17 years ago, and, alongside the imposition of custodial sentences for the worst offenders, has had the result of reducing the numbers of active egg thieves to a tiny rump of obsessive individuals.

2.3 Badger baiters and killers

Medieval Scotland was a place, along with the rest of Europe, where acceptable and desirable entertainment included watching animals fight to the death. Cock fighting, bear baiting and dog fighting were all widespread and commonplace. Attitudes have changed, however, and, in modern times, the scope of entertainment has increased hugely and these once common practices are now considered not just old-fashioned or unacceptable, but cruel and unnecessary.

They have ended up as criminal offences as attitudes have changed over time, but at least one such practice continues in Scotland to this day – badger baiting.

Crimes against badgers are generally categorised as sett disturbance (where badger setts are ploughed, damaged, blocked or destroyed by some illegal agricultural and forestry operations, developments and illegal operations), badger baiting where the animals are caught to fight with dogs, trapping/snaring, poisoning, shooting and wilful killing.

While the majority of known offences in Scotland (over 50%) are reportedly linked to unlicensed sett disturbance during agricultural, forestry and development work, badger baiting lies within the ambit of serious organised crime, in that it is planned, carried out by gangs, and is usually related to other criminal activities. It is linked to the keeping of dogs for fighting, and has highly probably increased in Scotland over past years, (according to the SSPCA, and informal Police links) but its full extent is not known.

Badgers are sometimes dug out of setts for baiting in the vicinity, and this can be in daylight, often near to urban areas. Terriers are used to help dig badgers out of the ground, lurcher type dogs to run badgers down, and new cross-breeds to actually fight them, almost always leading to the cruel deaths of badgers. At other times, they are removed for dog fights and taken to secret locations in farm buildings, suburban yards and gardens, or pub cellars, with illegal betting also being carried out.

Videos are posted openly on the internet, and provide leads for Police investigation. This frequently uncovers evidence of other criminality, such as illegal drug selling or the possession of unlicensed firearms. The view of Scottish Badgers, the charity for the animals' protection, is that over the past 12 years of receiving reports from the public, badger baiting, along with dog fighting, has increased dramatically, especially in the central belt of Scotland, and is mostly centred on Lanarkshire.

2.4 Freshwater pearl mussel thieves

Crimes against freshwater pearl mussels are generally categorised as illegal pearl-fishing and small numbers of river engineering and pollution incidents. The volume of reported offences is relatively low in comparison to some other types of wildlife crime, but freshwater pearl mussels have been identified as a UK Wildlife Crime Priority due to the species' global conservation status of "endangered" and the international significance of the Scottish populations.

The low volume of reported incidents has been attributed to the species' remote areas of remaining distribution which are seldom visited by people, a general ignorance about how to recognise illegal pearl-fishing activity, and evidence of pearl-fishers deliberately hiding evidence of their activities. Often, the only evidence remaining days or weeks after a crime has been committed, is a pile of empty shells on a remote river bank, reached by climbing down steep slopes and/or walking long distances.

Anecdotally and historically, these crimes have all too often been blamed on travelling people, but this is highly likely to be only an echo of prejudiced thinking and the historical fact that travellers were long associated with pearl gathering.

What is known of the practice, when it was perfectly legal, suggests that travelling people both knew the best sites for gathering activity, and, crucially, that they used techniques to harvest the pearls that did *not* damage the mussel population – thus ensuring that an income could be maintained from a sustainable source.

Other anecdotes suggest that fresh-water angling interests or urban criminal gangs are connected with the crime, but these again are mere conjecture. The truth is, sadly, that we have virtually no evidence from prosecutions in recent years to identify the minority carrying out the offences. All that we have are rivers in many areas of Scotland where mussels were known to live, and the periodic discovery of piles of shells as proof of their destruction.

2.5 Some shooting estates

Hunting purely 'for the pot' is rare in modern Scotland – but we have large industries which are variously described as a traditional activity or a sport. These involve shooting native, wild game birds by the tens of thousands each year (principally red grouse). In addition, millions of non-native species (such as pheasants and red-legged partridges) are released into our countryside every year so that they can be shot. Native red deer are also stalked and killed as game by the thousand each year (although it must be noted that many of these animals are taken as part of culls intended to control a population where the natural predators such as wolves have already been removed from the equation by people).

Environmental NGOs distinguish these legal but intensive shooting industries from the various activities which take place in Scotland that are genuinely within European hunting traditions – such as wildfowling and coarse fishing. These latter activities are based on taking a sustainable proportion of stocks of specific species for purposes of consumption – usually at home. These are the truly traditional forms of hunting.

But the Victorians and the Edwardians turned shooting into a tradition or a sport, and these became today's industries. Throughout the nineteenth century, encouraged by an introduced German and central European cultural influence, vast swathes of land in Scotland were turned into estates given over principally to shooting grouse, deer and pheasants.

The practices of managing the land to massively favour the prey species was developed, and the detailed records kept by these estates in the days before criminalisation, show in huge amounts of detail how they undertook the systematic slaughter of any species that was seen as a threat to the game species. These practices built a massive superstructure of extermination upon the more limited Scottish medieval history of areas being reserved for hunting. This came with the hugely extended the role of the gamekeeper, aided by the modern technologies not available in earlier periods – such as effective firearms, mass produced traps and widely available chemical poisons.

This new hunting culture soon contributed significantly to wiping out the population of the capercaillie (subsequently re-introduced) and the reduction of species such as black grouse to their current desperate state. But it was the predator species that suffered most. Scotland's birds of prey, in particular, were

systematically persecuted and several, such as osprey, white-tailed eagles and red kites, were driven to extinction.

This form of land management to favour shooting interests involved removing as much competition as possible, and saw the widespread use of pejorative terms as "predator", "pest" and "vermin control". It came alongside an anthropomorphic demonisation of non-game species, with sub-cultural references to "cowardly", "verminous" and "pest" species. These pejorative terms are the mask for the attitudes which have become amongst the major causes of wildlife crime.

There is strong evidence that some of the large high moorland shooting estates have intensified management to the extent that they remove *any* animals competing or perceived to be competing with game species. There have been many reports in recent years of vast numbers of mountain hares being killed each year, on the basis of inconclusive evidence that ticks carried by the species might be parasitic for grouse also. Several LINK members have called for a moratorium on the killing of hares so that more conclusive scientific evidence can be gathered on this practice. While much of this management is, on the face of it, legal, there is, however, also in many such areas, evidence of a zero-tolerance approach to protected predators.

The criminal minority operating in these hunting industries is united by a culture, but can be divided into two parts roughly – the owners or managers of some estates, and some of their employees. This has been recognised by the Scottish Government and Parliament with the recent introduction of vicarious liability making the owners of land responsible for any criminal actions undertaken by their employees. It is very clear that some estate owners or managers want the game bags to be as large as possible, and employees such as gamekeepers are then pressurised into committing the crimes to produce the desired results.

Sadly, these intensive management practices, where extended to the illegal killing of protected species, probably create the largest group of wildlife criminals in modern Scotland.

2.6 Wildlife crime on rivers

Many cases of wildlife crime have been detected along Scotland's rivers. Again, the game species (salmon, trout and several introduced species) are protected by special laws, often by designated, paid staff (some with policing powers not available to other civilians), and with similar laws with regard to rights over specified wild animals and rights attached to the ownership of the river

River and loch management to favour angling can involve removing competition and is usually carried out under licence, but instances have been reported of, for example, unlicensed shooting of cormorants or sawbill ducks, and this clearly constitutes wildlife crime. Again with the use of such terms as "predators", "pests" and "vermin control", there have been reports, also, that on some river beats in Scotland there is also trapping and killing of mammals such as otters (alongside legal control of mink – a non-native introduced species that has caused major damage to native wildlife).

2.7 Other minorities

Several other groups or types of wildlife crime can be identified from the records, and in each, it is clear that only small, identifiable groups of people are likely to be involved.

- Licences are issued to kill seals competing with fish farms, legal netting operations on the coasts, and (more rarely) freshwater angling interests. When seals are shot without a licence this constitutes a wildlife crime.
- Huge damage has been done by the targeted theft of vast numbers of British bluebells and other bulbous plants. The bulbs are taken by criminal gangs for sale.
- Taking any wild plant from the countryside is a wildlife crime, and small groups of obsessive collectors (similar in some respects to egg collectors) constitute a serious threat to the very existence of the rarest species such as the less common orchids (numerous of which have already been driven to extinction).
- Wildlife crime also affects cetaceans, with whales and dolphins harassed at times, sometimes accidentally, but their future is affected by general development, and larger marine policy issues.
- Wildlife crime affects bat species with both persecution because of fear or dislike and instances where bats compete with the interests of developers.
- There are many well recorded cases of wildlife crime around pigeon lofts, typically in an attempt to protect racing pigeons, and targeted most often at birds of prey.
- A market for young Scottish birds of prey (or even fertilised eggs) exists in parts of Europe and the Middle East. The birds are highly valued for falconry – especially peregrine falcons – and demand high prices, often in the thousands of pounds. A tiny number of people have been prosecuted in respect of this overseas trade, but it has declined markedly within the confines of the UK itself since DNA technology allowed for the reliable tracing of the origins of falconry birds in this country. These new evidential techniques hugely increased the chances of the detection of crime and this, coupled with improved success of captive breeding, has reduced the pressure on wild populations of falcons.

3. The policy tools for eliminating wildlife crime

3.1 Scottish Environment LINK believes that the existing tools of public policy can be used to virtually eliminate wildlife crime from Scotland. We have already seen that a combination of changing attitudes in society, together with intelligence-led, carefully targeted, community based policing has all but ended the practice of egg collecting. If Scotland values its reputation as a country that values its wildlife, and as a modern democracy, all the drivers available to government and society need to be used to the same effect for all the other categories of wildlife crime.

3.2 Adequacy of the criminal law

The laws detailed in the introduction to 'Natural Injustice 1' are, in the opinion of environmental NGOs, more than adequate currently to perform the job of combatting wildlife crime. The first laws against these criminal activities were passed by Parliament over 100 years ago. Since then, an accumulation of legislation has tightened the scope of the law on many occasions, and this covers all areas required, for the most part. We are not aware of any calls from other sources for extensions or strengthening of the laws.

If the law is extensive and strong enough, it is, however, complex and sourced in many different pieces of Scots Law and statute. We believe, as laid out in section 3.9 below, that there may be strong arguments for consolidation of the laws relating to humans, wildlife and land use.

The problem though is not adequacy of the laws, but with the attitudes of the minorities described above – most of whom know the laws very well - and the highly variable levels and standards of enforcement of the laws described in 'Natural Injustice I', and summarised below.

3.3 Enforcement of the criminal law

In 2008, the Scottish Government published a report entitled *Natural Justice* containing the results of a joint thematic inspection of the arrangements for preventing, investigating and prosecuting wildlife crime. The report made a number of recommendations for improvement.

Six years after the report's publication, however, many environmental NGOs with direct experience of the uncovering, monitoring and reporting of wildlife crime suggest that enforcement measures remain inconsistent and, in many cases, weak and ineffective. To evaluate these claims, Scottish Environment LINK commissioned the evidence-based report 'Natural Injustice 1' as a sister to this paper.

'Natural Injustice 1' focuses on four specific areas of wildlife crime: those relating to the persecution of badgers, bats, freshwater pearl mussels and raptors. It presents an estimation of the extent of these wildlife crimes, provides an overview of the current enforcement framework, tracks the progress of 148 wildlife crimes reported to the police between 2008-2013 including the process of initial follow-up investigation, prosecution, conviction and sentencing, and presents the on-going concerns of LINK members directly involved with the wildlife crime enforcement process.

The assessments of enforcement measures and policy from 'Natural Injustice 1' are discussed here, briefly, together with recommendations for action.

The four areas of wildlife crime (persecution of badgers, bats, freshwater pearl mussels and raptors) are under-recorded and the information that is recorded is generally inconsistently collected, which limits its usefulness. This is highlighted by the significant discrepancies between the annual crime figures produced by the wildlife NGOs and those produced by the Scottish Government. It is highly probable that the same situation and discrepancies exist for all wildlife crime areas – and that we are at the moment seeing only the tip of the iceberg of all wildlife crimes.

In 'Natural Injustice 1' LINK suggests that a standardised data recording protocol should be developed for use by all agencies (statutory and non-statutory and regardless of their specialist interest) to ensure that data are captured consistently across the full spectrum of wildlife crime.

Recommendation 1: Government and the wildlife NGOs should urgently discuss, agree and introduce measures to address under-recording; improve the standards for reporting; and introduce consistency across all areas of recording wildlife crime.

Recommendation 2: A three-tier classification system should be introduced for use by all agencies, assigning a widely agreed and accepted "confirmed", "probable" or "possible" category to each wildlife crime case, and grading information according to established police systems.

There is an urgent need to re-examine the recording systems and information sharing protocols in use, not only to increase public confidence in the Scottish Government's figures but also to provide a more accurate evaluation of the full extent of wildlife crime, using the scientific evidence available as well as that from investigations and prosecutions.

The Wildlife Crime Annual Report is a requirement of Section 20 of the Wildlife and Natural Environment (Scotland) Act 2011, which inserted a new Section 26B into the Wildlife and Countryside Act 1981. The first such report was produced in 2012 – but it contained no such evaluation of the scientific evidence. We believe this failure should be remedied in future reports and that the recommended improvements to recording (above) would provide an essential baseline component for the report.

Recommendation 3: The Wildlife Crime Annual Reports should include, henceforth, an evaluation of the full extent of wildlife crime in Scotland.

'Natural Injustice 1' considers 148 confirmed wildlife crimes reported to the police during 2008-2013. Of these only 98 (66.2%) are known to have resulted in a

follow-up investigation. This is, almost certainly, a reflection of the paucity of resources, and of priority, dedicated to wildlife crime by Police Scotland, as well as the effects of the reorganisation into a single police force.

Recommendation 4: Police Scotland should review the full complement of Wildlife Crime Liaison Officers (WCLOs) and Wildlife Crime Officers (WCOs) in terms of the basic number of whole-time-equivalent officers dedicated to this area of work. The basic complement dedicated to this area of work as its priority should be stated publicly, and used as a baseline – to be increased if it proves ineffective.

At least 27 wildlife crimes (18.2%) did not result in a follow-up investigation and were effectively ignored. It is feasible that as many as one third of reported incidents were un-investigated. There is no satisfactory explanation of this failure, but it may be related to the geographic spread of WCLOs and WCOs. The current distribution of police resources appears to be arbitrarily (or historically) based upon the position in the individual forces before merger into the single force. There is little, if any, sense of its being targeted on areas where the amount of wildlife crime is greatest. The failure to conduct follow-up investigations was not limited to one particular region but was a particular issue in five of eight regions.

Recommendation 5: The complement of WCLOs and WCOs should be rigorously targeted by Police Scotland at the areas where wildlife crime is known to be greatest. Consideration might be given to the feasibility of establishing a national wildlife crime rapid response unit, to be comprised of multi-agency partners who could respond to reports of serious wildlife crime.

Of the follow-up investigations that did occur, covered by 'Natural Injustice 1', LINK respondents considered just over one third (35.1%) to have been conducted satisfactorily. Criticisms included delayed police response times (sometimes as long as several months from the initial incident report) leading to the disappearance of evidence, delays exacerbated by un-trained police wildlife crime officers and a lack of seriousness with which senior police officers treat wildlife crime, failure to apply for search warrants, failure to conduct covert searches, poorly-targeted and/or restricted search efforts, the premature disposal of evidence prior to toxicological examination, and a chronic failure to communicate with partner agencies either as a result of police under-resourcing and/or apparently politically-motivated, deliberate exclusion policies.

Recommendation 6: Police Scotland should agree a wildlife crime strategy, in consultation with the wildlife NGOs. The strategy should be intelligence led, and carefully targeted at the areas of criminality.

Recommendation 7: Police Scotland should improve the basic wildlife crime training modules for all police cadets at the Scottish Police College and ensure compulsory, on-going training for all appointed WCLOs and WCOs.

Of the 148 confirmed wildlife crime incidents covered by the 'Natural Injustice 1' report, only 20 (13.5%) resulted in a prosecution. A minimum of at least 111 crimes (75%) failed to result in a prosecution. The failure rate was consistent across all regions.

Recommendation 8: The Crown Office and Procurator Fiscal Service (COPFS) should urgently investigate why such a high percentage of cases fail to be prosecuted and review arrangements for the allocation of its resources and training.

In some instances the failure to prosecute was recognised to be a result of the innate problems associated with investigating crime in remote areas, but in many cases the cause of failure was inextricably linked to a poor follow-up investigation.

In many cases it was noted that Police Scotland investigations were not being monitored fully by COPFS, and that the expertise available from partner organisations was either not fully used by WCLOs and WCOs, or they appeared to have been specifically excluded from the investigation.

In many cases the results of police investigations were not fed back to the complainants. This resulted in further loss of confidence in the seriousness attached to the investigations.

Recommendation 9: Follow-up investigations of wildlife crime by Police Scotland should be carefully monitored by COPFS and the expertise of partner organisations should be consistently and fully used. Results of investigations should be fed back to complainants.

Twenty of the confirmed wildlife crimes (13.5%) are known to have reached the prosecution stage and of those, 15 are known to have resulted in a conviction. This figure should be viewed as a minimum, as several cases are currently ongoing and thus the number of known convictions may increase.

Recommendation 10: The Wildlife Crime Annual Reports should include cumulative figures for prosecutions brought and the resultant rate of convictions.

It should be recognised the Scottish Government is currently undertaking a review of penalties imposed on convicted wildlife crime offenders. It is clear, that many of the sentences issued during our review period were at the lower end of the scale of available penalties, and that penalties issued for similar crimes appear to have been applied inconsistently.

It has already been noted above that the major success in virtually eliminating egg-collecting crime followed from the imposition of custodial sentences, as recognition grew that this was a crime being treated seriously. It is worthy of note that, at the time of writing, no wildlife criminal other than an egg collector had been given a custodial sentence. It is suspected that many fines imposed for

wildlife crime have been paid, in the last analysis, not by the convicted person, but by the economic interest behind the crime. If this suspicion is correct, fines are clearly not acting as a deterrent.

Recommendation 11: Stiff sentences should be asked for by COPFS to allow for proper consideration of deterrent effect by the courts, and the consistency of sentencing should be carefully monitored by the appropriate authority.

3.4 NGO involvement in cases

The research carried out amongst the wildlife organisations for the writing of 'Natural Injustice 1' demonstrated that, with a few notable exceptions, there is, amongst LINK members a distinct lack of confidence in the ability of the statutory agencies to adequately investigate wildlife crime and in the willingness of the judiciary to impose meaningful deterrent sentences.

Staff and volunteers in the wildlife organisations have perceived themselves to be becoming increasingly excluded from investigations and prosecutions. This perception is seriously undermining public confidence in the criminal justice system's capacity to prioritise and fight wildlife criminals.

The mantra of partnership working, promoted by politicians and officials, analysed in some detail in the next section, has been followed and has been seen to be a failure in reducing or eliminating wildlife crime.

A high-level conversation between Police Scotland and NGOs involved day-to-day with wildlife crime in Scotland is urgently required, to decide priorities and operational ways of working – and to rebuild damaged trust. Relationships are reported to have been strained in recent years, and must be improved in order to effectively use the large reservoir of both paid staff and volunteer resource in the sector. The established and efficient NGO sector in Scotland is not being used to the best effect, and this is a waste.

The Scottish Government is about to respond to the public consultation on increasing the investigatory powers of the SSPCA. Wildlife NGOs have supported the Government's proposals for the SSPCA, but are not seeking similar powers. They seek merely to re-establish the best practice in co-operation with the police and prosecutors they had in earlier years.

Recommendation 12: The Scottish Government should urgently institute confidence building measures and improved partnership working between Police Scotland, COPFS and the wildlife organisations, with clear instructions that the latter are not to be excluded from the process of investigation or prosecution, and their expertise and information sources should be properly and fully utilised in the fight against wildlife crime.

3.5 Political leadership

Political leadership is essential in the fight to eliminate wildlife crime because the democratic will of the people, expressed in many Acts of Parliament over the last

100 years is being flouted by small minorities still involved in the criminal activities. Just as wildlife crime practices have historical roots, however, so do the failings of political leadership over the decades in tackling the problem. Politicians of all parties have deplored wildlife crime as a "national disgrace" or similar in recent years, but the will to seriously tackle it appears to have been lacking until very recently.

This ambiguity between political rhetoric and the enforcement of the law, as passed by Parliament, has at least one major cause. While politicians have condemned the practice of the crime, Governments have, at the same time, been dedicated to avoiding conflict in the countryside. Significant political effort has been exerted over many years to avoid clashes between some of the country's land owners and managers on the one hand, and some of both environmental and social reformers on the other. This political approach has, as a matter of course, favoured the maintenance of the existing contexts and arrangements.

In this matter, the influence of the House of Lords, the estate ownership of many of its members, and their widespread involvement with and in shooting interests, cannot be ignored. It undoubtedly created a major barrier to the enforcement of the law, but it must be noted that, since 1999 and the re-establishment of the Scottish Parliament, the House of Lords has only minimal legislative or administrative influence over criminal law and conservation policy in Scotland. It is, perhaps, time for the Scottish Parliament to assert its authority, and examination of the recently published Land Reform consultation may be an indicator that this is indeed starting to happen.

One of the major consequences of this dichotomy in Scotland has been the political direction given to natural heritage policy and its agency - Scottish Natural Heritage (SNH). Since its inception, SNH has been directed by politicians, some with landed interests, to operate as a "light touch" agency, but SNH has been and remains a significant influence on the Government's policy approach to wildlife crime, co-ordinating the partnership approach to wildlife crime at the same time as exercising the "light touch" on civil matters such as agricultural regulation, deer management and the designation of protected areas.

SNH's situation in relation to the criminal law can be compared unfavourably with other areas of crime, such as illegal drugs or domestic violence for example, where a big-tent partnership approach to tackling the problem has been adopted. The operations of these partnerships must be contrasted and compared with the Partnership Against Wildlife Crime Scotland (PAWS). Under the direction of Government, the partnership has included the entire range of countryside interests. This has included the representatives of the shooting estates and the gamekeepers, always accompanied by the claim that "only a tiny minority of these interests are involved in wildlife crime".

This claim as to the size of the minority is disputed by the wildlife organisations. We fully accept that there are many estates where wildlife crime is very specifically not practised, and we praise these estates. The scientific evidence described in relation to golden eagles and hen harriers in section 1.3 above, alone suggests, however, that the criminal practices are far more widespread than amongst a "tiny minority" of estates, and this evidence is echoed or repeated for many other

persecuted species. Hugely experienced NGO staff and volunteers involved in the protection of birds and mammals have suggested that the true picture is likely to be that, in fact, a significant majority of intensively managed driven grouse-shooting estates see the illegal killing of wildlife as justified because certain species are seen to be in competition with game species. The full assessment of the extent of wildlife crime in the Government's annual wildlife crime report contained in Recommendation 3 might properly get to the bottom of these mutually contradictory assertions.

It is, also, known to be true that member organisations of PAWS are actively involved in arranging the legal defence in a large number of wildlife crime cases. Highly experienced and very expensive defence teams regularly appear before the Sheriffs in wildlife crime cases, and they are hugely extended as every avenue of defence is pursued.

The time has come to seriously question the efficacy of the partnership approach, and to either reform it or scrap it. Put simply, it has had well over twenty five years to make a difference and it has failed. Despite the 2008 refresh of PAWS (following adverse media coverage and public anger at the continuing deaths of our wildlife) there is little if any evidence that wildlife crime is declining.

PAWS discussions have, since the forum's inception, been dominated by bird of prey persecution and estate management matters. This is best demonstrated by the inclusion of poaching as a part of the original PAWS remit, and as a considerable part of its work. As suggested above, poaching is seen by the wildlife organisations as, primarily a crime against shooting, fishing and other land rights, not against wildlife per se.

Recommendation 13: If the partnership approach is to continue, the Scottish Government should commission research to assess the true extent of the different types of wildlife crime in Scotland and remove any group tainted significantly by association with any area of wildlife crime from PAWS.

Recommendation 14: The Scottish Government should immediately remove poaching from the PAWS remit and deal with it as a distinct and separate matter.

3.6 Prevention measures

Much of the work of PAWS has focussed on preventative measures and programmes. The only long-term, proactive, preventative work has been carried under the aegis of PAWS by WCLOs and WCOs in outreach to schools and outdoor summer events. The wildlife organisations believe that, although worthy, the programme only reaches very limited numbers of Scotland's schoolchildren, and where the material produced for schools is good in quality, it is aimed at a general audience, much of which will have only the slightest contact with wildlife crime issues – if any.

It is not clear how much effect this work has, as little research has been carried out into its efficacy. One serious concern is, however, that it is not targeted at the minorities known to be involved with criminal practices. This lack of targeting is a

serious concern for the NGOs. Another is that it appears to use scarce police resources, without any rigorous strategic assessment of where those resources might best be used. A further concern is about the balance between the preventative work and active policing, in comparison with other areas of police work.

It should be noted that many members of LINK organisations carry out extensive educational and informational work with the public also, whether with children directly, in schools, with teenagers in NGOs, or with the wider public at gatherings. Much of this has had to be focused on wildlife crime issues, as it is a major interest of the Scottish public. Many thousands of staff and volunteers hours are tied up in this work each year.

Recommendation 15: The Scottish Government should ensure that preventative measures are assessed rigorously - and targeted effectively.

3.7 Land reform

A wide-ranging land reform discussion is underway currently in Scotland. Scottish Environment LINK has contributed to this debate. We have pointed out that, to make any serious improvements, land reform must take account not only of land ownership, but also of land use – both the rights and responsibilities in land matters must be considered. We have made submissions to both the Scottish Government's Land Reform Review Group (LRRG) and to the House of Commons Scottish Affairs Committee consultation on comprehensive land reform. A further submission will be made to the current Scottish Government consultation. The principles we have advocated are the following.

- All land owners and managers of land must understand and observe defined environmental rights and responsibilities.
- Ownership of land should be open and transparent.
- The public interest and public policy on land use should be set out in a democratically established Land Use Strategy – with openness and public participation as a central feature of land governance.
- Planning and regulatory systems for land should take account of all ecosystem impacts.
- Land taxation should be designed to be economically, socially and environmentally sustainable.
- Public policy subsidy for land use must fully balance economic, social and environmental concerns.

These principles were, to a large extent incorporated in the official Report of the LRRG – and the publication of a new Land Reform Bill is imminent.

The Scottish Parliament has already recognised the economic and environmental link between shooting as a land use, and land ownership, when it created vicarious liability for the owners of land where wildlife crime is committed. The recent decision of the Scottish Government to link the issue of general licences for killing certain species of animals under the Wildlife and the Countryside Act to evidence of wildlife crime extends this recognition.

Recommendation 16: The Scottish Government should consider how wildlife crime might become a material consideration within the land reform programme, and how it can be made into a major element within the statutory Land Use Strategy.

Recommendation 17: The Scottish Government should consider how any wildlife crime directly connected to land use on a specific piece of land might lead to the withdrawal of all subsidies associated with land ownership – and should publish, in its annual wildlife crime reports, a summary of Single Farm Payment and other penalties imposed as a result of wildlife crime.

Recommendation 18: The Scottish and UK Governments should consider how any wildlife crime directly connected to a land use on a specific piece of land might lead to the withdrawal of all fiscal privileges associated with land ownership, as an additional sentence available to the courts.

3.8 Biodiversity strategy

The Scottish Government is bound by international obligations to halt the loss of biodiversity – and we are failing to achieve this aim. The recently refreshed Government biodiversity strategy includes reference to the threat posed by wildlife crime to species such as hen harriers and freshwater pearl mussels. The background to this fear is that Scotland has historically lost a wide range of species to persecution, and we would suffer a serious blow to our international reputation as a country, if this history is allowed to repeat itself in the 21st century.

It is worth noting that this matter of reputation is broader than simply the damage that might be wrought in the political or the scientific arenas. Visit Scotland research has demonstrated that a majority of visitors to Scotland from other countries come here to see our landscapes and our wildlife. As tourism is one of our major industries, it follows that headline stories about any failure to protect and nurture rare species very probably causes serious damage to our economy.

Scotland also has a reputation for world-leading programmes for the re-introduction of lost species. In recent decades, we have successfully re-introduced red kites, white tailed eagles and European beavers. It would be bitter irony and reputational blow if these programmes were to fail because of wildlife crime, and this is reflected in the coverage of every incident where re-introduced species are deliberately killed – as in the recent case where 13 kites were found poisoned on the Black Isle.

3.9 Social considerations – codes and fears in communities

Members of wildlife NGOs have regularly reported that certain types of wildlife crime appear to be surrounded by a form of omerta – a code of silence akin to that associated with criminal gangs in southern parts of Italy. These reports suggest that, either people in communities are bound in some strange, traditional system of honour to remain silent, or they are plain scared to report wildlife crimes and to rock-the-boat locally. Even in several well attested cases where pet dogs, cats and other animals have been killed, no reports have been made to the police, suggesting a serious sense of intimidation in communities adjacent to some shooting estates. Within Scotland, this phenomenon has been reported in many

rural communities – but it might also be witnessed in urban communities in connection with violent dogs and badger baiting.

This phenomenon of codes or fears might seem far-fetched, but has been widely attested over many decades and it is deserving of further social research to find out how widespread it might be. If it is present to any great extent in Scotland, it would be a further challenge for Government to address in its future strategy for eliminating wildlife crime.

Recommendation 19: The Scottish Government should commission research into codes or fears in individuals and communities around reporting wildlife crime in Scotland, and Police Scotland should consider trials for improving anonymised reporting for wildlife crime specifically.

3.10 Wildlife law

In section 3.2 above, we stated our view that the current law with regard to wildlife protection is extensive and strong enough. We noted, though, that it is, however, complex and sourced in many different pieces of Scots Law and statute. In particular, the conflicting attitudes which lie beneath much wildlife crime are based in confusion and misunderstanding between ancient social and economic relationships with our wildlife, and modern requirements and obligations to protect and enhance the species we share Scotland with. We believe that the time may have come to consider the arguments for consolidation of the laws relating to humans, wildlife and land use.

The existing laws on the relationships between wildlife and humans are drawn from a wide range of sources – both ancient and more modern. The fundamental law stretches back to roots in Roman law. The last Act passed by the original Scottish Parliament concerned the protection of game. The modern laws have arisen in a piecemeal fashion; sometimes in one or more areas of law; sometimes for particular species; sometimes answering specific concerns.

Parliament and Government in Scotland since 1999 have returned to these issues on many occasions, but never in a comprehensive way. New provisions and sentences were introduced by the Nature Conservation (Scotland) Act in 2004. Vicarious liability for land owners became part of statute in 2012, with the first successful prosecution in December 2014. In recent months there has been an examination of the relationship between general licences under the Wildlife and the Countryside Act and incidents of wildlife crime – with a considerable debate as to the likely emergence of changes in practice.

We believe it is time for this legal thicket to be considered comprehensively, and we make the following arguments for the consolidation of these laws.

- **Clarity and simplicity:** It would be of great value for the people, landowners and the authorities to have a simple, comprehensive code of laws covering the relationships between our own species and all the other wild species we share the land, sea and air of Scotland with. Consolidation would allow us to shape and sharpen the general principles upon which the law was based – such as offering a clear, definitive distinction between pets, agricultural species and wild animals.

- **Species:** Instead of separate sources of the law for terrestrial, marine and aerial species in generalised categories, and for individual species such as, for example, seals, deer or badgers, it would be advantageous to have a single, consistent source of the law for wildlife. A consolidation might clarify, also, the economic status of each species and principles for the sustainability of their populations.
- **Land, sea and air:** A consolidated law would allow for far greater chances of simple, clear relationships with other parts of the law such as property ownership and rights, or protective designations of land, sea and air. In this way, the difficult problems of the relationship between wildlife protection, wildlife crime and poaching might be clarified and resolved.
- **Licensing:** Existing categorisations and licensing systems under wildlife protection and hunting or game laws could be brought together and made clear and comprehensive.

In an area such as charity law, the Scottish Parliament has already demonstrated both an appetite and an expertise in consolidating an area of our laws. We believe that the protection and enhancement of our wildlife is another area of law deserving such comprehensive reform, and that such a reform would confirm our status as world-leaders in our attitudes to the space in which we live.

The table below describes, very briefly, the framework that such a review of the law might require – covering categories of species; geographic application of the laws; and licensing regimes that might be required.

| Species | Land, sea and air | Licensing |
|------------------------------------|--------------------------|------------------|
| <i>'Pests'</i> | all areas | general licence |
| <i>Native game</i> | specified areas | game licence |
| <i>Introduced game</i> | specified | game licence |
| <i>Invasive Non-Native Species</i> | all/specified | INNS licence |
| <i>Re-introduced</i> | all | nil |
| <i>All others</i> | all | nil |

Such a framework for the relationship of species and humans would have the advantage of making the co-ordination of the several drivers of public policy in relation to our natural heritage – including designations for protected sites and species, and land use subsidies – more of a comprehensive package, with the possibility of each area of policy being reinforced by the improved opportunities for cross compliance.

Recommendation 20: Scottish Government and Parliament should consider undertaking a comprehensive review, and possibly a consolidation, of the laws relating to humans, wildlife and land use.

4 - Conclusions

4.1 This report and its accompanying paper, 'Natural Injustice 1', are a damning indictment of our failure to diminish or eliminate wildlife crime in Scotland. Together, they should be a wake-up call for those involved in tackling wildlife crime. A law is only as good as its enforcement, and the comprehensive analysis contained in these papers shows that this is far from good enough here in Scotland.

- Wildlife crime arises from modern versions of old or ancient practices, and takes place in a world where the pressure of human population has grown, scientific understanding has increased and attitudes towards wildlife and our environment have changed significantly.
- Practices that were once acceptable have moved to being considered cruel and unacceptable, and then to being treated as crimes – especially where the practices have become obviously linked with human economic interests. Attitudes in some minorities have lagged behind these changes.
- The extent of wildlife crime is vastly greater than suggested by the numbers of police investigations and prosecutions.
- The political will to stamp out these now criminal practices has been tempered, is lacking or not exerted in an effective manner.
- The example provided by the near elimination of egg-collecting has not been appreciated and followed.
- We need political will to be put behind determined, intelligence led, carefully targeted and community based policing.
- We need to see the full panoply of sentences available to the courts being used deter criminals and eliminate practices.
- If this is followed through, we can virtually eliminate wildlife crime in Scotland and remove the stain it places on our reputation.
- This can be achieved using the law as it exists, but consideration should, perhaps, now be given to a comprehensive reform of the panoply of laws governing the relationship between humans and other species.

Scottish Environment LINK is the forum for Scotland's voluntary environment community, with over 35 member bodies representing a broad spectrum of environmental interests with the common goal of contributing to a more environmentally sustainable society.

Its member bodies represent a wide community of environmental interest, sharing the common goal of contributing to a more sustainable society. LINK provides a forum for these organizations, enabling informed debate, assisting co-operation within the voluntary sector, and acting as a strong voice for this community in communications with decision-makers in Government and its agencies, Parliaments, the civic sector, the media and with the public.

Acting at local, national and international levels, LINK aims to ensure that the environmental community participates in the development of policy and legislation affecting Scotland.

LINK works mainly through Taskforces – groups of members working together on topics of mutual interest, exploring the issues and developing advocacy to promote sustainable development, respecting environmental limits.

This report is supported by the following LINK members:

Amphibian and Reptile Conservation
Badenoch and Strathspey Conservation Group
Bat Conservation Trust
Froglife Scotland
John Muir Trust
Ramblers Scotland
RSPB Scotland
Scottish Allotments and Gardens Society
Scottish Badgers
Scottish Countryside Rangers Association
Scottish Wildlife Trust
Scottish Wild Land Group
The Scottish Raptor Study Groups
Whale and Dolphin Conservation
Woodland Trust Scotland
WWF Scotland

LINK is a Scottish Charity (SC000296) and a Scottish Company Limited by guarantee (SC250899). LINK is core funded by Membership Subscriptions and by grants from Scottish Natural Heritage, Scottish Government and Charitable Trusts.

© Copyright Scottish Environment LINK 2015