



A REVIEW OF WILDLIFE CRIME COURT CASES IN MALAWI, 2010-17

Assessing the Impact of Court Room Monitoring
& Private-Public Prosecution on Court Outcomes



A Review of Wildlife Crime Court Cases in Malawi 2010-2017

A technical report produced on behalf of the Department
of National Parks & Wildlife of Malawi

Authors: Victoria May¹, Laure Barthau¹, Susan Lukhere², Bertha Chipanda³ and
Jonathan Vaughan¹

Date: November 2017

Supported by: 'Stop Ivory' and 'Save the Elephants and Wildlife Conservation Network's
Elephant Crisis Fund'



¹ Lilongwe Wildlife Trust

² Citizens for Justice

³ Department of National Parks and Wildlife of Malawi

FOREWORD

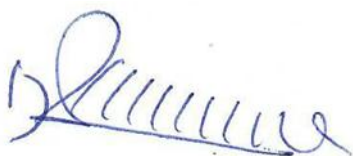
Between 10,000 and 100,000 species are estimated to be going extinct each year, which is around 1,000 times higher than the natural extinction rate⁴. Africa's elephants are declining at catastrophic rates. In 2014, the National Academy of Science in the United States published data showing that c. 40,000 Savannah elephants were poached each year in Africa between 2009 and 2013. At this rate of decline, this iconic species could be extinct in the wild by 2025. In Malawi over 50% of elephants have been lost in the last 25 years, and Kasungu National Park now supports c. 50 elephants down from c. 2,000 in the late 1980s. The illegal trade in ivory is driving the killing of our elephants, and armed criminal gangs now pose a real and immediate threat to our rangers and local communities.

The volume of illicit ivory trafficked globally tripled between 1998 and 2011, and more than doubled between 2007 and 2011⁵. Between 2009 and 2014 there were over 90 seizures of ivory that weighed more than 500 kg, with a total weight of more than 170 tonnes. This included an ivory seizure in my own country in May 2013 of c. 2.6 tonnes. Unfortunately, the Convention on International Trade of Endangered Flora and Fauna (CITES) recently listed Malawi as a country of "primary concern" in terms of elephant ivory trafficking. The same report proclaimed Malawi to be the principal transit hub for illicit ivory in Southern Africa. This is something that we Malawians are fully committed to rectify and we have made some significant steps forwards, including amending and strengthening our principle wildlife legislation and increasing our wildlife crime investigation capacity.

However, wildlife poaching and trafficking is no longer solely a wildlife conservation issue and wildlife authorities cannot succeed if they attempt to tackle wildlife crime alone. The illicit ivory trade is a multi-million-dollar criminal enterprise. It spans continents and contributes to the degradation not only of natural environments, but also our communities, rule of law, and security. It is evident that, in terms of crime profits, IWT now ranks alongside trafficking in drugs, arms and humans. So, whilst wildlife poaching and trafficking remain urgent conservation issues, they must also be seen as serious organised crimes that threaten states. A strong response is required, and by all arms of government. This includes wildlife authorities, but also wider law enforcement agencies, legislators and the judiciary. This project is evidence that here in Malawi we are adopting a collaborative inter-agency approach to tackling these serious crime, including the critical engagement of our Judiciary.

This report presents legal analysis of all available elephant and rhino crime court cases concluded in Malawi since 2010. It also appraises the impact of courtroom monitoring and public-private prosecution on wildlife crime court outcomes, both of which were introduced in Malawi in July 2016. The purpose of this analysis was to develop a series of recommendations on the management and reporting of wildlife crime. All findings are based on data collected from courts across the country.

As Principal Secretary of Ministry of Natural Resources Energy and Mining, I am encouraged to see that wildlife law enforcement in Malawi is strengthening and our response to the wildlife crime crisis is becoming deterrent. It is essential that we continue to be progressive and sustain our coordinated and collaborative approach, because there is still much for us all to do. This is highlighted by the recommendations made in this report. Nevertheless, I remain truly hopeful that we can turn the tide, save our iconic species from extinction and secure their survival for futures generations to come.



Patrick C.R. Matanda

Principal Secretary, Ministry of Natural Resources, Energy and Mining

⁴ WWF. http://www.panda.org/about_our_earth/biodiversity/biodiversity/

⁵ Elephant Trade Information System (ETIS)

ABBREVIATIONS

CFJ	Citizens for Justice
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
CRM	Chief Resident Magistrate. Manager of all the magistrates and courts in one of the three regions in Malawi
DCA	District Court Administrator
DNPW	Department of National Parks and Wildlife
DPP	Director of Public Prosecutions
ETIS	Elephant Tracking Information System. Established at CITES CoP17
FGM	First Grade Magistrate
GDP	Gross Domestic Product
IHL	Imprisonment with Hard Labour
IUCN	International Union for the Conservation of Nature
IWT	Illegal Wildlife Trade
KIA	Kamuzu International Airport
LWT	Lilongwe Wildlife Trust
MoJ	Ministry of Justice
MPS	Malawi Police Service
NGO	Non-Governmental Organisation
NPWA	National Park and Wildlife Act
PRM	Principle Resident Magistrate
SADC	South African Development Community
SGM	Second Grade Magistrate
SRM	Senior Resident Magistrate
TGM	Third Grade Magistrate
UN	United Nations
WAG	Wildlife Action Group
WCIU	Wildlife Crime Investigation Unit

CONTENT

Foreword.....	2
Abbreviations	3
Acknowledgements.....	5
Executive summary	6
1. Introduction	8
2. Assessment approach	10
Development, aims and activities	10
Baseline study and data collection	10
Data limitations.....	11
3. Findings	12
Data overview	12
Overview elephant and rhino crime data	13
Type of elephant and rhino crime.....	13
Elephant and rhino Trophies.....	14
Magistrate grades and elephant and rhino crimes	16
Plea at first instance for elephants & rhino crimes.....	17
Remand status for elephant and rhino crimes	17
Prosecution and sentencing.....	18
Influence of nationality on sentencing elephant and rhino crimes	20
Impact of amended National Park and Wildlife Act	20
Other notes and observations	21
4. Discussion points.....	23
Cooperation	23
Data collection and case management.....	23
Type of crimes.....	23
Type of offenders.....	23
Remand status	23
Investigation and prosecution cooperation.....	24
Adjournments	24
Effectiveness of private prosecutions/court room monitoring	24
Court Outcomes and Sentencing	24
New Wildlife Act	25
5. Recommendations	25
Collaboration	25
Data collection and case management.....	25
Investigation and prosecution	25
Legislation and judiciary practice.....	26
Sensitization	26
6. Conclusion.....	26
Appendices.....	28

ACKNOWLEDGEMENTS

This project was a collaboration between Lilongwe Wildlife Trust, Citizens for Justice and DNPW, with support from several other Malawi Government law enforcement agencies and NGOs such as Wildlife Action Group, African Parks Network and the International Fund for Animal Welfare.

Special thanks go to the Malawian Judiciary for their support in allowing monitoring inside the courts, and to all the court administrative staff who helped locate files during the baseline data study. Thanks also to the Director of the Directorate of Public Prosecutions, Mrs Mary Kachale, who helped conceive, and continues to authorise, the public-private prosecution model for wildlife crimes in Malawi.

We would also like to express our gratitude to all the prosecutors and legal officers in DNPW and MPS who have been willing and determined project partners. The report's findings are testament to the inputs and efforts they have made over the project period, and the impact of the project is evidence of the new commitment within Malawi to combat wildlife crime.

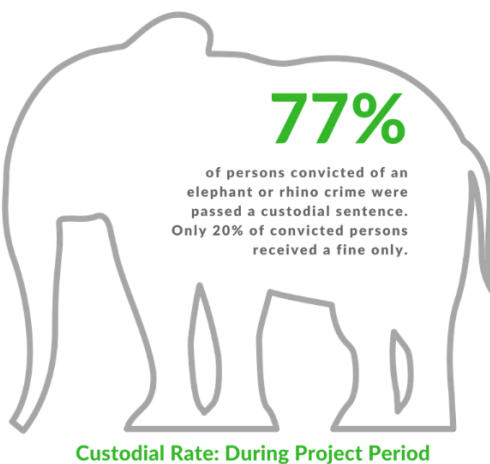
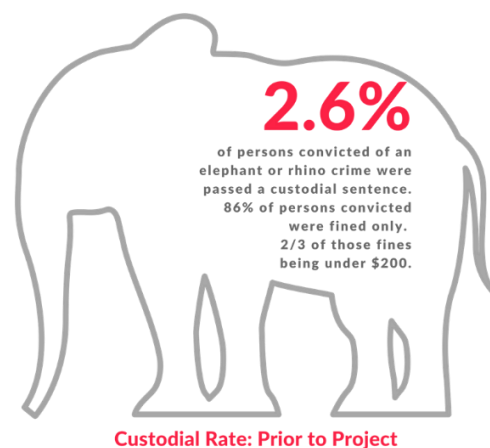
Further, we would also like to express our sincere appreciation to the generosity of the project's donors, Save the Elephants and Wildlife Conservation Network's Elephant Crisis Fund and Stop Ivory, who not only funded this study and report, but also covered courtroom monitoring and public-private prosecution costs for the project duration. Their support has kick-started what we hope will be the start of long-term institutional and society-led change with regards to how Malawi views and sentences serious wildlife criminals. The opportunity to prove that these interventions work in Malawi has also helped to secure longer-term funding to help sustain the project's impact.

EXECUTIVE SUMMARY

As is the case across Africa, Malawi's elephant populations have declined dramatically in the past decade. The country has been implicated in wildlife crime for many years and has been identified by CITES as a hub of ivory trafficking. In response, Malawi has introduced a number of new initiatives to combat wildlife crime. In 2016 a new Wildlife Crime Investigations Unit (WCIU) was established within DNPW and has since been very active across the country, making over 100 ivory related arrests. In 2017, Malawi adopted the SADC Law Enforcement and Anti-Poaching Strategy (LEAP), a regional convention that aims to reduce poaching, wildlife trade and improve law enforcement in Southern Africa, and also passed an amendment bill for the National Parks and Wildlife Act which considerably stiffened penalties related to wildlife offences.

LWT has been following wildlife crime cases in Malawi for several years and noticed how the judicial response to wildlife crime was not deterrent. In fact, poor court outcomes were negatively impacting the effectiveness of anti-trafficking enforcement initiatives, like the WCIU, because there was little threat of follow-through from the arrest inside the courtroom. In response, LWT, CFJ and government partners entered into a cooperation agreement to introduce measures with the aim of strengthening wildlife crime court outcomes. This included the introduction of a courtroom monitoring programme, alongside public/private prosecutions (Private Counsel prosecuting cases alongside the State) of the most serious crimes.

To assess the project and analyse the judicial response, this study compared two study periods: the first period, the "pre-project period" corresponds to wildlife crime cases reported and tried in the courts between early 2010 up until this project commenced on 1st July 2016. The second period corresponds to the "project period", i.e. one year from 1st July 2016 to 30 June 2017. The majority of the wildlife crime cases reviewed were from elephant crimes and the most widespread offences were: possession and export of a protected species during the pre-project period, and possession and dealing in a government trophy during the project period.



A significant change in the seriousness attached to wildlife crime by the Malawian Judiciary was observed immediately after the start of the project period. Up until July 2016 the most common sentence passed by the judiciary for elephant and rhino crimes was a small fine. However, since July 2016 imprisonment with hard labour has become the most common sentence passed - with the mean average prison sentence being 36.5 months. In addition, further evidence of the seriousness attached to wildlife crimes cases since project started was the significant increase in number of accused persons being remanded into custody before and during trial, and the allocation of senior magistrates e.g. Chief Resident Magistrates to such cases during the project period compared to local magistrates pre-project.

This significant change in response can, in main part, be attributed to: 1) the introduction of the courtroom monitoring and private-public prosecution; and, 2) the passing of the National Parks and Wildlife Act Amendment (although the report findings suggest that judicial response to the new law still needs some improvement). The introduction of private-public prosecution for serious wildlife crime cases (Private Counsel prosecuting cases alongside the State) led to a very positive impact on the conviction rate - 100% of accused persons tried being convicted with custodial sentence.



However, the most significant impact of the project appears to be on the type of sentences passed by the courts. Indeed, custodial rates for elephant crime rose from 2.6% during the pre-project period to 77% during the project period, and to 84% if a courtroom monitor was present. If the case was privately prosecuted (i.e. involving a private lawyer) the custodial rate rose to 100%.

In addition, the new National Parks and Wildlife Act Amendment, gazetted in February 2017, led to further improvements in custodial rate for serious elephant and rhino related crimes. In particular, the offences of possession and dealing in government trophies of protected species were punishable under the old Act with a maximum fine of MK 100, 000 and/or, imprisonment of up to ten years. Under the new Act, such offences are now punishable by a maximum penalty of up to 30 years' imprisonment. There is now no option of a fine.

Malawi has made some significant strides forwards with regards to addressing serious wildlife crime. However, during the study it was observed that the courts are still facing several challenges that may restrict or limit future judicial response to wildlife crime. These include: gaps and inaccuracies in court data collection and case file management; legal mischarging (due to incorrect or incomplete investigation or prosecution); and, an excessive use of adjournments. It is hoped that all justice actors in Malawi will continue to work progressively and collaboratively to address these matters and further strengthen the country's response to serious wildlife crime.

Based on the study's findings and observations, a series of recommendations have been developed in this report. In summary, these include proposed measures that will:

- Promote collaboration between all relevant stakeholders;
- Improve data recording, management and sharing;
- Reduce the potential for mischarging;
- Provide for additional trainings and guidelines;
- Allow for sensitization across all key stakeholders;
- Extend and strengthen courtroom monitoring and public-private prosecution.

Once implemented, these recommendations will help sustain the dramatic improvements seen in wildlife crime court outcomes in Malawi since the commencement of this project in July 2016.

1. INTRODUCTION

Wildlife trafficking is a multi-million-dollar illicit industry that is decimating Africa's wild animal populations. Iconic species such as African elephants face the risk of catastrophic decline or even extinction. According to the IUCN African Elephant Status Report (2016)⁶, the African elephant population has declined by an estimated 111,000 in the past decade, primarily due to poaching. In recognition of its devastating effect on endangered species, and its links to organised crime, there is now a strong global interest in combating serious wildlife crimes. In 2015 the UN General Assembly adopted a resolution committing countries to step up their collective efforts to address wildlife crime and put an end to the global poaching crisis. Malawi's wildlife has not escaped this crisis. Wildlife in Malawi has undergone devastating declines for many years⁷ and the country has regularly been implicated in some of the world's largest wildlife trafficking seizures⁸. Malawi borders Tanzania, Mozambique and Zambia and is positioned centrally within a wildlife poaching/trafficking hotspot⁹. The country is not only a source of illicit wildlife products but also a well-known collection, distribution and transit hub for wildlife trafficking. Malawi is ranked 120 of 176 countries on the Corruption Perception Index, i.e. it falls within the top 1/3rd most corrupt countries in the world. The risk-reward ratio for wildlife criminals has been extremely high and the country has been an ideal hub for wildlife crime syndicates to source, collect, store, process and transit shipments of wildlife products out of Africa.¹⁰

The Elephant Trade Information System (ETIS) report from CoP17 identified Malawi as a country of "primary concern", in large part due to the likelihood

of significant trade governance failure and the high probability of organized crime syndicates operating in and from the country¹¹. The report notes that significant quantities of illicit ivory are likely to move through Malawi undetected¹². In addition, in May 2017, in recognition that Malawi is a hub for ivory trafficking, CITES requested Malawi to draw up a National Ivory Action Plan (NIAP). This was in response to prevalent wildlife trafficking being reported in the country. For example, the international airport (Lilongwe, Malawi), has the third highest number of wildlife seizures according to the C4ADS Air Seizure Database for Africa. At the launch of the National Elephant Action Plan (NEAP) for Malawi, the Director of DNPW stated that, "...*ivory trafficking is driving the killing of our elephants and needs immediate action if the killing is to be significantly disrupted within Malawi and the wider region....*". Although these conclusions were drawn on the basis of ivory-related data, they also apply to other wildlife products, especially high value products such as rhino horn. In the past 18 months, over 900 kilograms of elephant ivory and two rhino horns have been confiscated by the Malawian authorities and significant amounts of additional contraband seized overseas has been linked to Malawi. Malawi is harbouring organised, transnational wildlife crime syndicates.

Nevertheless, enforcement in Malawi has significantly improved in recent years. A new WCIU was established inside DNPW in April 2016 and has made over 100 arrests of traffickers and traders across the country. Malawi also scored the highest enforcement ratio in a recent assessment of wildlife trafficking in the air transport sector by C4ADS: c. 91.7% of air trafficking instances involving Malawi were detections at Malawian airports rather than at destinations¹³. Furthermore, in February 2017, Malawi enacted the National Parks and Wildlife Act Amendment, which provides the toughest penalties for serious wildlife crime in the SADC region. And, in the same month, Malawi, as a SADC member state, also adopted the SADC Law Enforcement and Anti-Poaching Strategy (LEAP). The strategy aims to reduce the level of poaching and illegal trade in wildlife fauna and flora and enhance law enforcement capacity. It focuses on enhancement of legislation and judicial processes and

⁶ Thouless CR, Dublin HT, Blanc JJ, Skinner DP, Daniel TE, Taylor RD, Maisels F, Frederick HL and Bouche P (2016) African Elephant Status Report: An update from the African Elephant database. Occasional Paper Series of the IUCN Species Survival Commission, No. 60 IUCN/ SSC Africa Elephant Specialist Group. IUCN Gland, Switzerland

⁷ Munthali, S.M. & Mkanda, F. X (2002). The plight of Malawi's wildlife: is translocation of animals the solution? *Biodiversity and Conservation*. Vol: 11, pp 751-768.

⁸ For example: Singapore, 2002 – 6500 kg of elephant ivory; Tianjin, 2012 – 932 kg elephant ivory; Malawi, 2013 – 2,600 kg elephant ivory; Mbeya, 2015 – 11 rhino horns.

⁹ S. K. Wasser, L. Brown, C. Maitland, S. Mondol, W. Clark, C. Laurie, B. S. Weir (2015) Genetic assignment of large seizures of elephant ivory reveals Africa's major poaching hotspots. *Science*. Vol. 349, Issue 6243, pp. 84-87.

¹⁰ Waterland, S., Vaughan, J., Lyman, E., & Jursic, I. (2015). Illegal Wildlife Trade Review: Malawi, 19: <http://www.lilongwewildlife.org/wp-content/uploads/IWT-Review-Malawi.pdf>

¹¹ CITES, Report on the Elephant Trade Information System (ETIS), CoP17 Doc. 57.6 (Rev. 1), 14.

¹² *Id.*

¹³ Routes Report

the minimization of wildlife crime and illegal trade (amongst other areas). Despite these initiatives, the recent export of rhino horn (39kg) and elephant ivory (330kg) from Kamuzu International Airport to Shanghai and Bangkok airports respectively, illustrated that serious wildlife criminals are still active in Malawi and that the progressive authorities require continued support¹⁴.

Government funds to protect wildlife are extremely limited - Malawi is the world's 6th poorest country, based on GDP (\$1,139 per capita). Therefore, Malawi is adopting a collaborative approach to help ensure that capacity needs within the government agencies mandated to enforce wildlife legislation are addressed. This includes working in partnership to tackle critical needs that prevent the effective prosecution of serious wildlife crimes. This is essential, as these agencies are grossly under-resourced e.g. in 2014 DNPW's annual budget, including all wildlife enforcement, was just ca. \$250,000¹⁵.

The 2015 IWT Assessment in Malawi¹⁶ showed the urgent need to improve wildlife crime court outcomes, and treat wildlife trafficking and poaching as serious and de-stabilising crimes. For example, the most common court sentence across c. 60 different ivory trafficking cases between 2010 and 2015 was a fine of \$40¹⁷. This is an important point of note, as although 100's of millions of dollars are spent on apprehending poachers and traffickers across Africa each year, comparatively very little investment is made to ensure that those convicted are adequately punished in order to deter offending and disrupt wider criminal syndicates.

LWT has been following wildlife crime cases in Malawi for several years, and it was evident that the judicial response to wildlife poaching and trafficking was extremely weak when compared regionally. It was evident that court outcomes were not strong enough to deter people from committing wildlife crime and the risk-reward ratio for criminals was extremely favourable.

LWT was aware that Wildlife Direct managed to positively change attitudes towards wildlife crime

within the criminal justice sector in Kenya, in large part, by introducing a court-room monitoring programme¹⁸. After consultations between LWT, DNPW, MPS and the Malawian Judiciary, it was agreed that a similar programme could be trialled in Malawi. In addition, LWT and DNPW agreed with the DPP that a second more direct intervention - that of public-private prosecution - could also be introduced and its effectiveness to help build capacity and improve outcomes appraised. In order to undertake this assessment, there was a need to collate and analyse historical court data for wildlife crimes and compare this data to cases subjected to the two key project interventions.

This report presents the findings of that assessment, and outlines the impact of courtroom monitoring and the public-private prosecution model on wildlife crime court outcomes in Malawi. The methods adopted are presented in Section 3 and the findings in Section 4, where they are subsequently discussed in Section 5. Recommendations as to how the wildlife justice sector in Malawi could be improved to help end the poaching crisis are then presented in Section 6.

It is hoped that the analysis and recommendations provided will serve as an effective framework, and reference guide, for organisations wanting to support the wildlife justice sector in Malawi, and beyond. It is also hoped that law enforcement agencies of Malawi and the Judiciary continue to work collaboratively, and progressively, in order to adopt the recommendations made, whilst continuing their recent commendable efforts to combat serious wildlife crime in Malawi.

¹⁴ <https://malawi24.com/2017/04/10/malawi-government-worries-wildlife/>

¹⁵ Malawi IWT

¹⁶ Ibid 7.

¹⁷ Malawi IWT

¹⁸ Elizabeth Gitari et al., (2016). Courtroom Monitoring Report 2014 and 2015. Wildlife Direct. <http://wildlifedirect.org/wp-content/uploads/2017/02/WildlifeDirect-Courtroom-Monitoring-Report-2014-2015.pdf>

2. ASSESSMENT APPROACH

DEVELOPMENT, AIMS AND ACTIVITIES

Once LWT, DNPW, MPS, DPP and the Judiciary had agreed on the outline project concept, the Elephant Crisis Fund kindly funded Elizabeth Gitari¹⁹ of Wildlife Direct to visit Malawi and help LWT and government partners to develop a detailed project plan.

It was decided that the Malawi project would have two main aims: 1) to improve wildlife crime court outcomes through, a) building capacity in wildlife justice actors (prosecutors, investigators, magistrates) and, b) improving transparency and accountability inside court-rooms; and, 2) to undertake a review of all serious wildlife crime cases that were concluded, pre and during project implementation, in order to help develop a series of recommendations for improving wildlife crime case management in Malawi.

To achieve these aims the following activities were agreed:

- The production of this *baseline study* to gather and analyse all available court records related to elephant and rhino crimes in Malawi between 1st January 2010 and 30th June 2017;
- The development of a central *digital database* for all wildlife crime court cases in Malawi;
- The introduction of *direct private prosecution* and *court-room monitoring* for serious wildlife crime court cases from 1st July 2016;
- The implementation of *media sensitization* and *engagement* to raise awareness of issues and successes related to wildlife crime court cases from 1st July 2016.

The project aims and activities were approved by Government and letters of support granted from DNPW, MPS, DPP and the Judiciary. An open consent to prosecute serious wildlife crimes in the magistrate courts was granted by the DPP to Mr Andy Kaonga²⁰ who was retained by LWT as a private lawyer for the public-private prosecution component. Public-private

prosecution consists of pairing a government prosecutor with a private lawyer, the latter holds the case file, but the two lawyers work collaboratively to litigate as a partnership. This mutually builds capacities and trust.

BASELINE STUDY AND DATA COLLECTION

The baseline study aimed to provide an examination of how wildlife legislation has been applied in Malawi over time. The data collection involved site visits to over 50 Malawian criminal court registries in addition to regional MPS offices, DPP offices and DPNW offices, in order to obtain historic court records of serious wildlife crimes. All cases dating from 2010 onwards were collected, digitally scanned and input into the project database. 2010 was selected as the cut-off point as court records are archived after 5-6 years and become even more difficult to find. All data collection was done by graduate CFJ lawyers alongside LWT and DNPW officers. Unsurprisingly, the majority of the data was obtained from courts adjacent to protected areas or key transit hubs such as airports. All four regions of Malawi were covered, namely: The Northern Region, Central Region, Southern Region and Eastern Region.

The researchers aimed to collect the following data for each case:

- Police Case number
- Court Case number
- Magistrate name, Court and Grade of Magistrate
- Court Clerk
- Name(s)/Surname of accused person(s)
- Accused nationality
- Particulars of the offence as it appears on the charge sheet
- Trophies: type, number, value and weight
- Date of arrest/ date of first hearing
- Officer in charge of the case
- Plea recorded
- Type of proceedings
- Type of prosecutor, i.e. private or public or both.
- Accused represented/legal aid
- Remands status (in custody/on bail)

¹⁹ Elizabeth Gitari, advocate of the High Court of Kenya and previously legal affairs manager of Wildlife Direct.

²⁰ Andrew Kaonga, Senior Counsel and Partner of Wilkinson and Associates, Lilongwe.

- Bail and bond terms given if any
- Trial Outcome
- Aggravating and mitigating factors
- Sentence imposed
- Length of imprisonment/Amount of fine sentenced
- If fined, whether accused paid the fine(s)
- Adjournments and reasons
- Appeal made and outcome
- Proceeds of crime applications
- Confirmation procedure completed
- Re-trial ordered
- Outcome of re-trial

The data was collected for both the “Pre-Project” phase (1st January 2010-30th June 2016) and the “Project” phase (1st July 2016 – 30th June 2017). For this report, a comparison of data from cases “pre-project” was made with data from cases “post-project”. Analysis was also made between cases that were subject to either courtroom monitoring, public-private prosecution or neither intervention (cases which were not picked up by the project). There was also a general analysis of data from all cases across the whole study period (1st January 2010 to 30th June 2017). All cases collected and reviewed during the study are shown in Appendix 3.

The findings of the data analysis are presented in Section 3. Note that this report focuses particularly on elephant and rhino crime cases as these were deemed the most serious wildlife crimes by Government partners, and were also the species of particular interest to the project’s donors (Stop Ivory and the Elephant Crisis Fund).

DATA LIMITATIONS

Whilst full access was granted to case files and archives, there was information and data that the researchers could not obtain because it was missing from the registry or court records. Mainly this concerned investigation data (police case number, date of arrest and officer in charge), but often the court clerk name, value of trophy, reasons of adjournments were also missing. Sometimes judicial case numbers were also missing in the judgment, a

crucial piece of information needed to evaluate the number of wildlife crimes (to be differentiated from the number of offences). Remand status was in many cases also not specified by the magistrate, although there was a significant increase in the number of remand status addressed by the magistrates during the project period.

Indeed, in regard to the Magistrates’ cases, the lack of full case details on wildlife cases was common. Files were written by hand, which was often illegible. Furthermore, many case files were damaged or lost, so full information could not be obtained. Nevertheless, the researcher collected as much complete data as was available to the best of their abilities.

With regard to the High Court and Supreme Court of Appeal, only the cases when LWT was observing the proceedings were project officers able to collect data. Other data was unobtainable. This was not due to the lack of co-operation with the courts, more simply it was because there were/are very few wildlife crime cases heard by these courts in Malawi i.e. only one prosecution appeal and three defence appeals for the whole study period.

3. FINDINGS

DATA OVERVIEW

This first section presents an overview of the data collected from all wildlife crime cases that were reviewed during the study i.e. all available data from between 1st January 2010 and 30st June 2017. These cases relate to elephant and rhino but also to other protected species, both animals (hippo, leopards, antelopes...) and flora (tree species...). A summary of all cases that were reviewed as part of this project is provided in Appendix 3.

Table 1 below, shows that a total of 192 wildlife crime cases were reviewed. Of the total 192 cases, 122 are from the pre-project phase and 70 from the project period. Across the 192 cases, there were 309 accused persons facing trial. The majority of accused persons received judgement i.e. 90% of the 192 cases were concluded (173 cases, 270 accused persons tried).

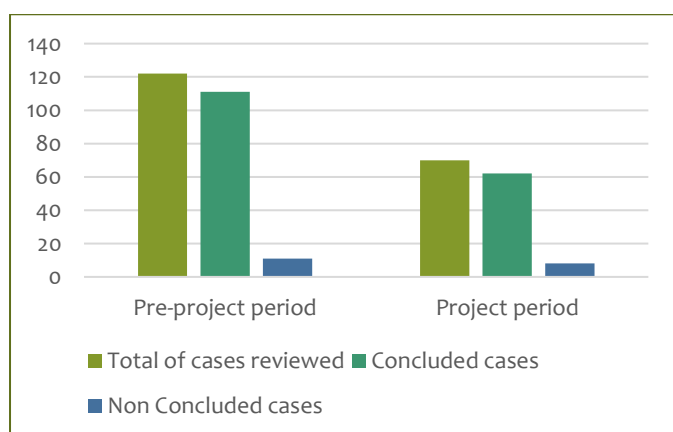


Figure 1. No. of concluded vs. non concluded cases

Comparing the case conclusion rate of pre and post project periods (Figure 1, below left) we can note that the conclusion rate of cases remained similar across both time periods. It is also interesting to note that although there were more cases reviewed during the pre-project period (122) than during the project period (70), there is almost the same number of total accused persons for both the pre-project and project phase. In general, there appears to be an increase in the number of persons involved in each wildlife case over time: 1.25 persons/case during the pre-project period v. 2.22 persons/case during the project period (1.29 persons/case v. 1.81 considering elephant or rhino cases only).

Table 1 also shows that there has been a considerable increase in the number of wildlife crime cases taken to court, and concluded in court, since the project commenced. For example, 70 wildlife crime cases were taken to court in just 12 months during the project phase which is 57% of all wildlife crime cases taken to court over 5.5 years pre-project phase (122). This equates to 22 wildlife crime cases per year during the pre-project phase, compared to 70 per year during the project period. This is an indication of improved law enforcement in country e.g. the WCIU and others.



Table 1. Data overview of all wildlife crimes cases (Elephant and rhino cases/Others) from 2010 to 2017

	PRE-PROJECT PERIOD			PROJECT PERIOD			TOTAL
	Total	Elephant or Rhino cases	Other wildlife crime cases	Total	Elephant or Rhino cases	Other wildlife crime cases	
Total number of cases reviewed	122	61	61	70	55	15	192
Number of cases concluded	111	60	51	62	49	13	173
Total number of accused persons	153	79	74	156	100	56	309
Number of persons whose cases were concluded	139	77	62	131	81	50	270

OVERVIEW ELEPHANT AND RHINO CRIME DATA

The elephant and rhino cases accounted for 116 of the total number of wildlife crime cases (192) reviewed. This equates to 60% of the total number of cases.

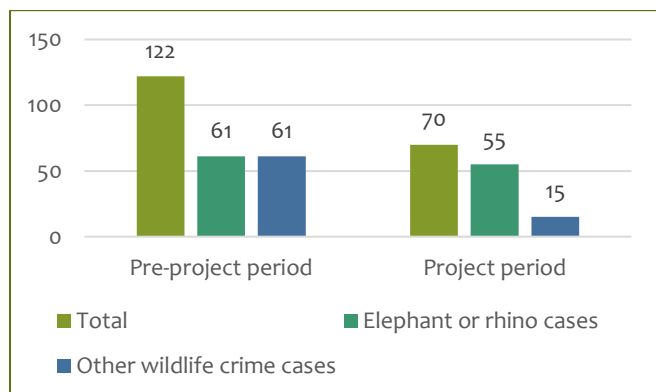


Figure 2. No. of Elephant or Rhino cases/Non elephant or rhino cases

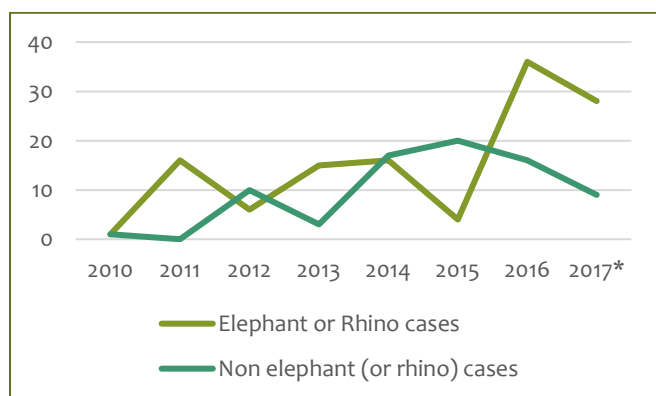


Figure 3. Evolution of wildlife crimes cases reported from 2010 to 2017 (* 2017 figures concern cases reviewed from January to June 2017 only)

Figure 2 shows the comparison in the number of elephant or rhino cases between pre-project and project phases, while Figure 3 shows that there has been an increase in the proportion of elephant or rhino crime cases reviewed over time. For example, 78% (55) of the 70 wildlife crime cases reviewed during the project period were related to elephant or rhino. These cases involved 100 accused persons. 49 of these 55 elephant related cases are concluded. The six outstanding cases were expected to be concluded before the end of 2017.

TYPE OF ELEPHANT AND RHINO CRIME

This section outlines the type of offences recorded (and for what the accused were convicted) from

across the whole study period, in relation to the National Parks and Wildlife Act of Malawi only. Table 2 (below) and Table 3 (over page) outline the types of crime under this specific Act only because offences under this Act made up 97% of all wildlife offences recorded. In fact, there were only 3 cases where offenders were charged under different legislation - Fire Arms Act (2) and Money Laundering and Proceeds of Serious Crime Terrorist Financing Act (1).

Figures 4 (below) and 5 (over page) outline that the most common elephant crime under the NPWA was possession of a government trophy (raw or worked ivory), which was 48% of all elephant or rhino crime cases during the pre-project period, and 60% during the project period. Importation or exportation of a protected species was the second most common charge, at 36%, during the pre-project period. This can be explained with the higher proportion of foreign offenders during that period. However, dealing in ivory became the second most common crime during the project period, at 19%. General offences often relate to elephant poaching and include entering with or without a weapon into a protected area.

Table 2. No. of NPWA offences reported during the pre-project period and corresponding sentences

Legal section	Total	Unknown	Custodial sentence	Fine	Suspended sentence & Fine	Community service
Entering in protected area without authority (S.32 of NPWA)	1	1	0	0	0	0
Possession or use of weapons in protected areas (S.33 of NPWA)	2	0	1	1	0	0
Hunting or taking without a licence (S.35 or 47 of NPWA)	8	0	2	1	5	0
Possession, sale, buying of protected species (S.86 of NPWA)	36	1	1	34	0	0
Dealings in government trophy (S.91 of NPWA)	0	0	0	0	0	0
Importation, Exportation of protected species (S.98 of NPWA)	27	0	0	27	0	0
Illegal possession of fire arm (S.16 of the fire arm act)	0	0	0	0	0	0
Other	0	0	0	0	0	0

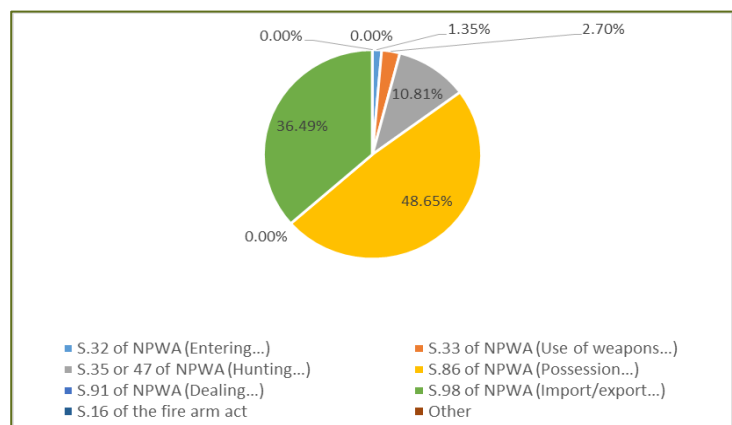


Figure 4. Percentage breakdown of NPWA offences. Pre-project period

Table 3. No. of NPWA offences reported during the project period and corresponding sentences

Legal section	Project period				
	Total2	Custodial sentence2	Fine5	Suspended sentence & Fine6	Community service7
Entering in protected area without authority (S.32 of NPWA)	6	6	0	0	0
Possession or use of weapons in protected areas (S.33 of NPWA)	5	5	0	0	0
Hunting or taking without a licence (S.35 or 47 of NPWA)	4	4	0	0	0
Possession, sale, buying of protected species (S.86 of NPWA)	64	50	12	1	1
Dealings in government trophy (S.91 of NPWA)	20	15	4	1	0
Importation, Exportation of protected species (S.98 of NPWA)	2	0	1	1	0
Illegal possession of fire arm (S.16 of the fire arm act)	3	3	0	0	0
Other	1	1	0	0	0

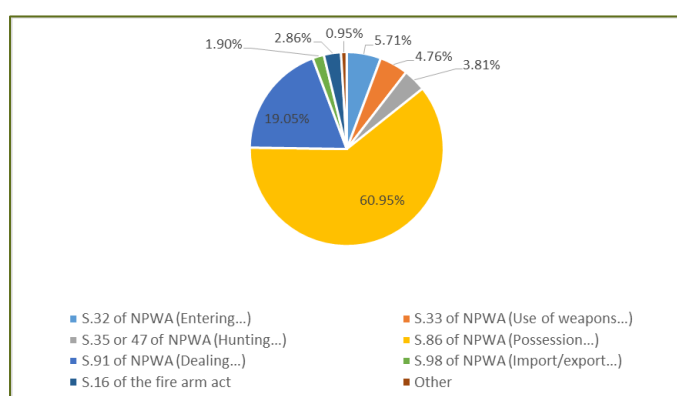


Figure 5. Percentage breakdown of NPWA offences during the project period.

ELEPHANT AND RHINO TROPHIES



Photo: Elephant ivory trophies inside DNPW's strong room

Most of the cases reviewed that involved the possession or dealing in elephant and/or rhino trophies related to the former. For the whole study period there were 108 cases where either elephant ivory (raw or worked) or elephant bones were found on, or dealt by, the accused. The total weight of

elephant ivory that had been seized and recorded in the court records was 4,122.36 kg. This is likely to be an under recording, because during the project period alone, investigation authorities have recorded over 700 kg of elephant ivory being ivory seized. The maximum amount of ivory seized in a single case was 2.6 tonnes of raw ivory (see below) which was seized in May 2013. The convicted were charged with the offence of possession and sentenced to a fine only, of. \$5,000 (*The Republic v. Chancy and Patrick Kaunda, High Court, Mzuzu*).



Photo: 2.6 tonnes of raw elephant ivory seized in Mzuzu in May 2013 after its illegal importation from Tanzania

Excluding the Kaunda Case, the mean average weight of elephant trophy per case seized from across the study period was 24kg, and there were only 5 cases from the study where possession or dealing in elephant trophies involved contraband weighing more than 100 kg. However, it is worth noting that during the study period there were some international seizures of elephant ivory that weighed more than 100 kg, which were determined as having originated, or exported, from Malawi, and for which no one has ever faced trial in country e.g. Tianjin, China in 2012 and Perth in 2015 (see below) amongst others.



Photo: Tianjin seizure of 930 kg of elephant ivory in 2012 included ivory originating from Malawi



Photo: The Perth seizure of 120 kg of elephant ivory in April 2015 was a consignment exported from KIA, Lilongwe.

At the time of writing, there was one outstanding case in the Malawi courts relating to the illegal export of 330 kg of ivory from KIA, Lilongwe, to Thailand. The 330 kg of elephant ivory was seized in Bangkok in March 2017 (see below). To date, seven accused persons have appeared in a Malawian court in relation to this seizure. At the time of writing the investigation and trial was still ongoing, so the case has not been included in this assessment.



Photo: The March 2017 Bangkok seizure of 330 kg of elephant ivory

In addition, 6 persons still stand accused of being found dealing in 126kg of worked elephant ivory, after being arrested on 26th December 2016. At the time of writing their trial was also ongoing and a sentence yet to be determined. It is therefore difficult to compare the potential influence of trophy weight on court outcomes for elephant crimes during the project phase. Nonetheless, it is apparent that those convicted of elephant trophy crimes during the project period have most often been afforded custodial sentences, even when the weight of contraband seized is less than the 24kg average.

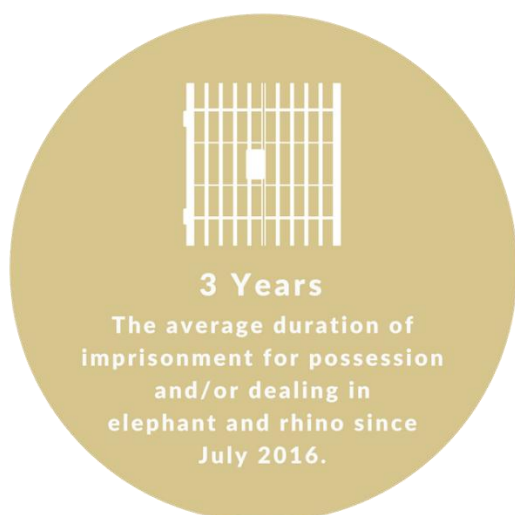


Photo: Malawi's elephant ivory stockpile

In contrast, during the pre-project period, it is apparent that a larger than average weight of elephant trophy did not lead to stiffer sentences. Indeed, in 2014, two separate cases involved the convicted possessing and dealing in 120 kg and 118 kg of elephant ivory respectively. In these cases, not one of the offenders were given a custodial sentence, with the punishment handed out by the courts being fines of just c. \$700 and \$300 respectively for all involved.

In contrast to elephant trophies, there are very few court records related to seize rhino trophies. Of all the cases reviewed during the study period, only one was found that related to a rhino trophy. This case was dated from May 2013 and involved a foreign national at Kamuzu International Airport (KIA). In this particular case, the convicted was found guilty of attempting to export an unknown quantity of rhino powder along with three raw elephant tusks and 49 associated pieces of carved elephant ivory curios. The convicted was sentenced to a fine only, of just c. \$150, in default of 24 months in prison. He paid the fine.

In addition to the above case, there were two other cases concluded in the Malawian courts during the study period that relate to rhino crime. Both were during the project period and neither related to possession or were connected to an actual seizure of horn. Both cases related to the attempted dealing of a horn taken from a poached black rhino in Liwonde National Park in June 2016. In one case the two accused were acquitted, while in the other case the offender was sentenced to 8 years in custody, no option of a fine.



Although there have been few rhino trophy cases recorded during the study period (which is not a surprise when considering the country's small rhino population), it is worth noting, as with elephant trophies, that during the study period there have also been international seizures of rhino horn which were exported from Malawi e.g. the 11 rhino horns seized in Mbeya, Tanzania in December 2015, and the 120 kg and 50 kg of horn seized in Vietnam and China respectively in March 2017. At the time of writing no one in Malawi has faced trial for any of these crimes.

MAGISTRATE GRADES AND ELEPHANT AND RHINO CRIMES

All but one case reviewed during the study period was heard in the magistrate court. Magistrate courts from around the country heard elephant and rhino crimes, albeit with a higher proportion for the Northern and Central region.

Table 4. Distribution of the accused tried into the court according to the grade of magistrates

Presiding Magistrate (grade)	PRE-PROJECT PERIOD	PROJECT PERIOD
CRM	7	72
SRM	4	16
PRM	0	3
FGM	33	8
SGM	0	1
TGM	1	0
Unknown	34	1

What is interesting, is how the elephant and rhino crime case distribution has changed between the pre project and project periods according to the

magistrate grade. Indeed, during the pre-project period, elephant related cases were mostly tried by First Grade Magistrate (FGM) that are responsible for the local prosecutions, while Chief Resident Magistrates (CRM) are professional judges competent for the serious offences.

However, the data from the project period showed that the majority (72%) of the accused in elephant related cases were tried by a CRM (see Table 4 and Figure 6). This indicates that there appears to have been a significant increase in the seriousness attached to wildlife crimes by the judiciary since the start of the project.

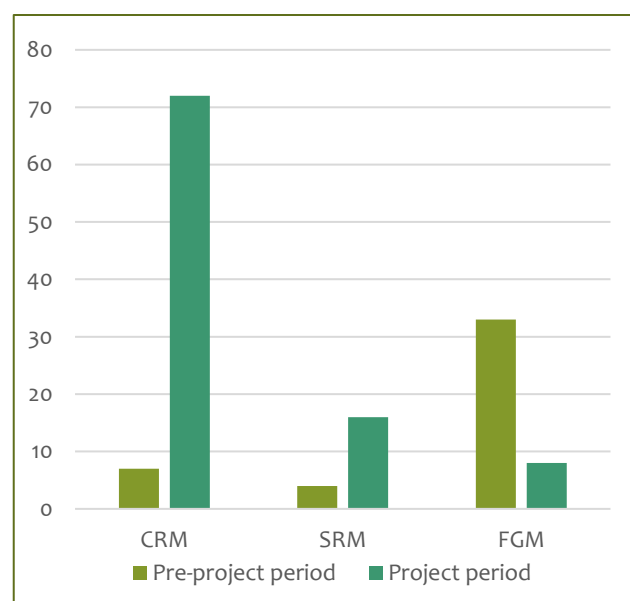


Figure 6. No. of accused tried by CRM, SRM and FGM pre-project and project period

Figure 7 (over page) shows the breakdown of offenders convicted for elephant or rhino related crimes across the different Malawian courts. It is significant to point out that at Mkukula, which is the relevant court for offenders arrested at Kamuzu International Airport (thus mainly for offences of possession of protected species specimen and export, which are serious offences), no custodial sentences have ever been pronounced. Mkukula is a First Grade Magistrate court. In contrast, the ratio of custodial sentences is higher at Lilongwe and Mzuzu courts, which are both CRM courts.

Finally, to a lesser extent, some FGM courts, those concerned by a significant number of elephant or rhino related crimes, like Kasungu or Mchinji, have already passed custodial sentences for these offences.

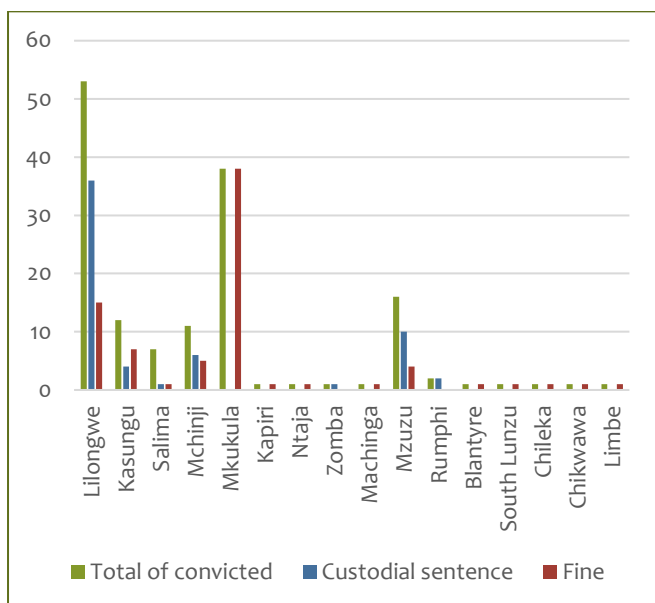


Figure 7. Breakdown of convicted and corresponding sentences over the courts of Malawi for the whole study period

PLEA AT FIRST INSTANCE FOR ELEPHANTS & RHINO CRIMES

Between pre-project and project periods there has been an increase in the recorded plea status. During the pre-project period 68% of the accused were registered without plea status. However, during the project period records show that more than half of the accused (54%) have a recorded plea status. The majority of accused pleaded not guilty during both the pre-project and the project periods (Figure 8, below).

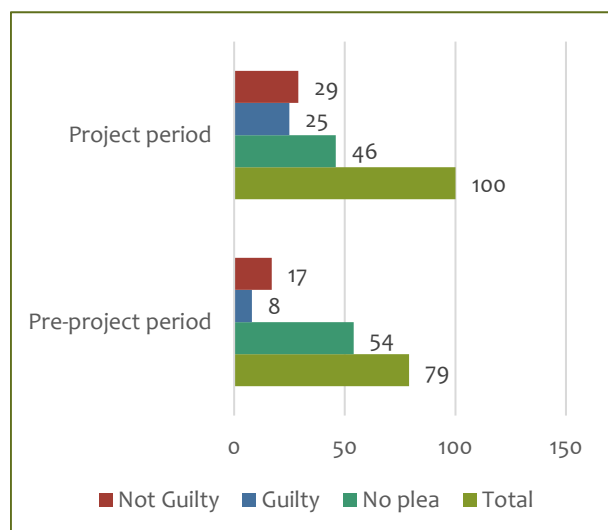


Figure 8. Plea status regarding the total number of accused pre and project period (including non concluded cases)

Secondly, observing data from the project period only (as the pre-project period had too many plea status data gaps), it is noticeable that sentences passed by the magistrates appear to favour the accused when they plead guilty rather than not guilty. For example, Table 5 shows that of the 25 persons convicted for elephant and rhino crime during the project period that pleaded guilty at first instance, only 64% (16) of them were given a custodial sentence by the courts (with an average period of imprisonment of 28 months). In comparison, 100% of accused persons that pleaded not guilty in the first instance, and were later convicted, were given a custodial sentence (with an average period of imprisonment of 45 months).

Table 5. Impact of plea status on sentence passed by magistrates during the project period (concluded cases only)

	Guilty plea	Not guilty plea
No. of accused who pleaded	25	20
No. of convicted	25	16
No. of acquitted	0	4
No. of custodial sentences passed	16	16
Average length of custodial sentence (in months)	28	45
No. of fines passed	7	0
Other sentence passed	2	0

REMAND STATUS FOR ELEPHANT AND RHINO CRIMES

During the pre-project period, most of the accused were not afforded a remand status (or it was not recorded by the courts). However, during the project period there has been an increase in the recording of remand status and in the use of remand into custody by the courts prior to trials (see Table 6).

Table 6. Remand status of the accused pre and project period

Remand status	PRE-PROJECT	PROJECT PERIOD
Remanded in custody	8	58
Remanded on bail	4	21
No remand status	67	21
Total of accused persons	79	100

As Figure 9 shows, persons accused of elephant and rhino crime are now predominately remanded in custody (58% of the accused during the project period) compared to 10% during the pre-project period (although note the high on remand status for the project period). It is also worthy of note that not one of the accused that were remanded on bail during the whole study period has later been served a custodial sentence by the courts.

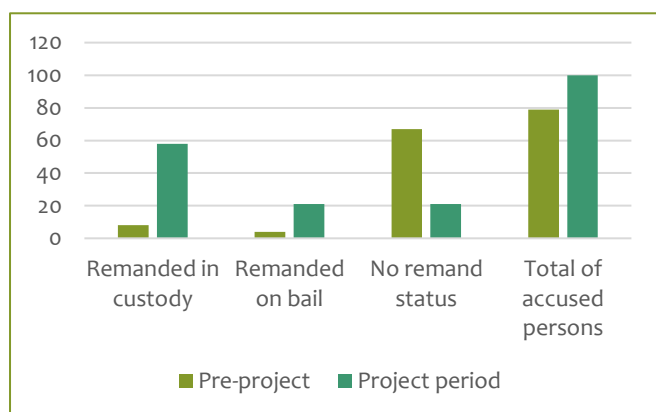


Figure 9. Remand status of the accused pre and project period

Finally, in analysis we observed that the average length of trial (date of first hearing to case conclusion date) decreased from about 42 days during the pre-project period to 25 days during the project period, in large part due to the increase of remand status (the courts can only hold someone on remand in custody for a “reasonable” custody time before and during trial).

PROSECUTION AND SENTENCING

Before the start of the project, all wildlife crimes cases in Malawi were prosecuted by the state only, without attendance of any external observers into court. Table 7 below, shows that for the whole pre-project period (more than 5 years) only 2 of the 75 convicted received a custodial sentence.

The most common sentence at that time was a mere fine: 86% of the 75 convicted for elephant or rhino crime related cases received a merge fine. For example, 42 of the 75 convicted have paid fines under 70,000 Malawi Kwacha ca. less than \$200.

This situation changed dramatically after the project started in July 2016. From this time, there have been three scenarios in terms of how a case is prosecuted:

- Public prosecution with LWT and CFJ court monitors attending court and observing. This is the most common scenario (concerning 61 accused on the total of 100 accused persons).
- Private/public prosecutions. For these cases, LWT played a more active role, instructing private counsel to also prosecute (concerning 30 accused on the total of 100 accused persons).
- Public prosecutions (state only) without attendance of any observer; i.e. same scenario than before the project started (concerning 9 accused on the total of 100 accused persons).

During the project period about 90% of cases concluded were subject to either an LWT or CFJ observer or litigator inside the courts. Table 7 and Figures 10 and 11 (over page) show that attendance by the courtroom monitors, or allocation of a private lawyer, dramatically impacted court outcomes.

As shown in Table 7 and Figure 10, it is noticeable that the allocation of a private prosecutor had a very positive impact on the conviction rate of a case, given that 100% of these concluded cases reached an offender conviction (13 offenders, zero acquittals). In parallel, the conviction rate was 94% for the cases monitored (56 of the 59 accused persons). However, when no courtroom monitors or private prosecutor was present in court, the conviction rate during the project period was 66% (6 of 9 accused persons).

Table 7. Data overview of prosecution scenarios pre and project period.

	PRE-PROJECT	PROJECT			TOTAL whole study period
	State only	State only	Monitored cases	Private prosecution	
Number of accused	79	9	61	30	179
Number of persons whose cases were concluded	77	9	59	13	158
Number of convicted	75	6	56	13	150
Number of acquitted	2	3	3	0	8
Number of custodial sentences	2	0	45	13	60
Mean average custodial sentence (in months)	n/a	n/a	36.4	37.2	36.5
Number of Fines	65	6	9	0	80
Mean average amount of fine	221,573.77	157,500.00	438,890	n/a	242,250

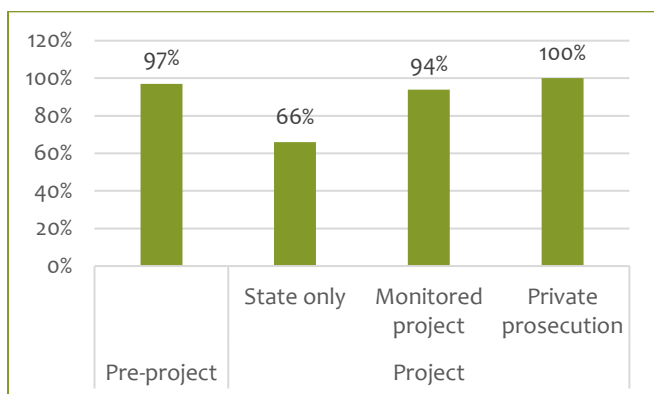


Figure 10. Impact of the prosecution type on the conviction rate

However, as Figure 11 shows, the most significant impact of the project appears to be its impact on the type of sentencing passed by the courts, rather than the conviction rate. For the cases privately litigated, 100% resulted in a custodial sentence (with a mean average length of imprisonment of 37.2 months). For the state prosecutions attended by courtroom monitors the custodial sentence rate remained high, with 45 of the 56 convicted being sentenced with imprisonment (80%) and just 9 of them being sentenced with a fine (with an average amount of fine of MK 438,890).

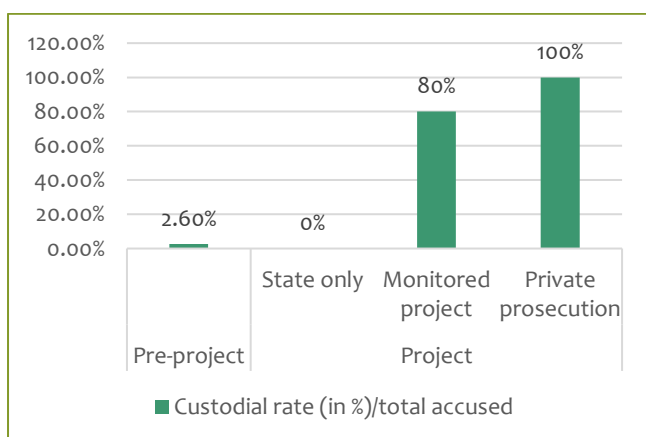


Figure 11. Impact of the prosecution type on the sentences passed for the convicted

However, for the cases in which there were no courtroom monitors or an allocated private prosecutor, none of the six convicted were sentenced to custody. Moreover, the average amount of fines passed for these six offenders is Mk 157,500 i.e. far under the mean average for the project period (Mk 326,333). Three of these six offenders (same case), charged with possession of ivory resulted in a fine of just MK 65,000 each (\$90). This is a similar outcome to the type of sentences that were common during the

pre-project phase i.e. no custodial sentence and extremely low fines.



As shown by Figure 12, during the project period, imprisonment with hard labour become the most common sentence passed for elephant related crimes (58 custodial sentences out of the total 75 accused that were convicted. i.e. 77%), with the length of imprisonment ranging from 6 months to 8 years. Fine sentences were given for only 20% of offenders, but when provided reached a record maximum of MK 2,250,000. The mean average fine during the project period was MK 326,333 v. MK 221,573 pre-project.

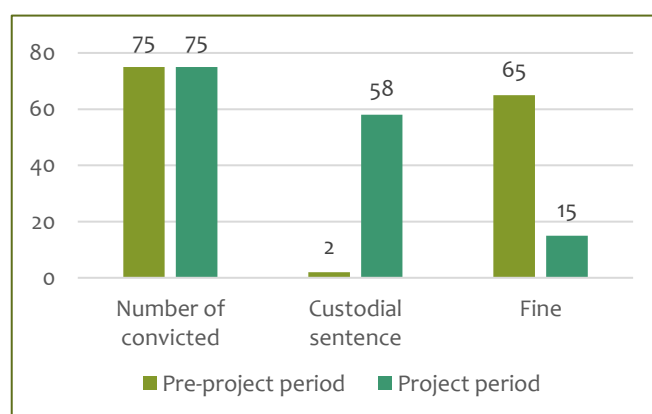


Figure 12. Breakdown of custodial sentences and fines passed for convicted offenders pre and post project

INFLUENCE OF NATIONALITY ON SENTENCING ELEPHANT AND RHINO CRIMES

There is also a perceived influence of nationality on the sentencing of elephant and rhino crime in Malawi. Of the 150 persons convicted for elephant or rhino related crimes over the whole study period, 42 were foreign national citizens i.e. 28% (Asian country citizens were the highest proportion), 94 were Malawians, i.e. 63% and 14 were offenders whom the nationality was unknown. As shown by Figure 13. Of the 42 foreign nationals convicted, 34 were prosecuted during the pre-project period, and 8 during the project period.

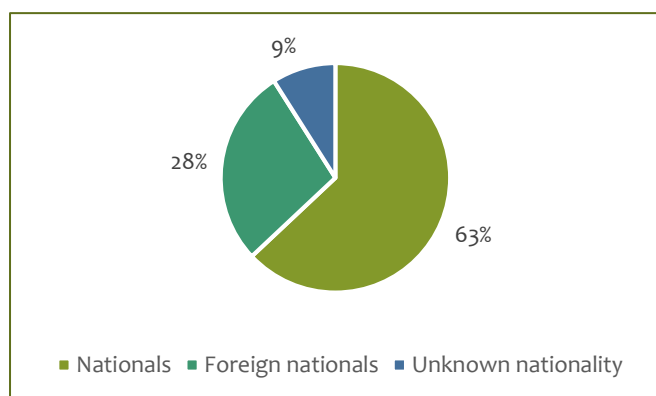


Figure 13. Breakdown number of nationals/foreign nationals for the whole study period

To analyse the influence of nationality on sentencing we chose to focus on the pre-project period (Table 8, below). This is because the 34 foreign nationals convicted from 2010 to June 2016 represented more than 45% of the total number of 75 persons convicted during that period. In contrast, during the project period, foreign nationals represent only 10% of the convicted.

Table 8. Breakdown of sentences between nationals/foreign nationals during pre-project period (Jan 2010- June 2016)

	Nationals	Foreign nationals	Unknown	Total
Total number of offenders (convicted)	32	34	9	75
Number of custodial sentence	2	0	0	2
Number of Fine	23	34	8	65
Number of suspended sentences	5	0	1	6
Unknown sentence	2	0	0	2
Mean average amount of fine (in Mk)	393,400	78,938	294,375	221,574

During the pre-project period 100% of the 34 foreign nationals convicted for elephant or rhino related crime were fined v.72% for the nationals (i.e. 23 offenders of the 32 nationals convicted) (Figure 14).

But what is more significant is that the average amount of fine sentenced for the foreign national was MK 78,938 i.e. 5 times less on average than the fine sentenced for Malawi nationals (MK 393,400). See table 8.

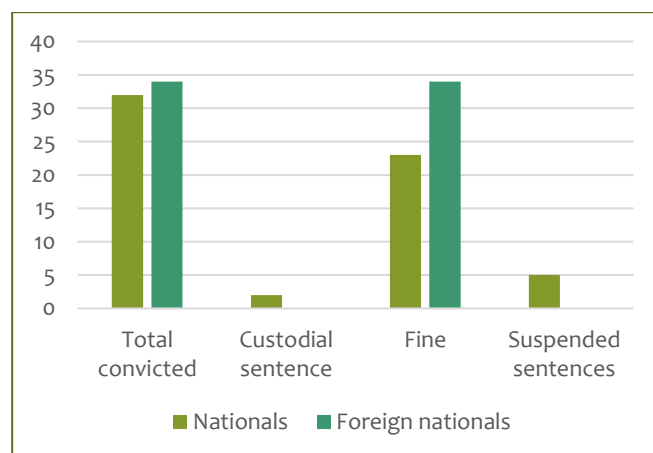


Figure 14. Type of sentences passed for nationals/foreign nationals during the pre-project period

IMPACT OF AMENDED NATIONAL PARK AND WILDLIFE ACT

The amended National Park and Wildlife Act came into force on 8 February 2017. We compared the sentences passed for convicted persons arrested under the old Act restricting it to the project period (i.e. between 1st July 2016 and 8 February 2017) and for the sentences passed for those arrested and prosecuted under the new Act (i.e. from 8th February 2017 to 30th June 2017) (see Table 9, over page).

We focused on the offenders convicted for possession and/or dealing in a government trophy (of protected species). These offences were punishable under the old Act with a maximum fine of MK 100, 000 and or, imprisonment of up to ten years. Under the new Act, such offences are now punishable by a maximum penalty of up to 30 years' imprisonment. There is now no option of a fine.

Table 9 : Sentences passed under Old Act (30th June 2016 to 7th February 2017) and since amended Act came into force (8th February 2017 to 30th June 2017)

	Under Old Act	Under amended Act
N° of convicted	54	21
N°of convicted for possession, dealing protected species	49	21
N° of custodial sentences (for the ones convicted for possession and/or dealing)	34	19
Percentage of custodial sentences	69%	90%
Maximum period of custody (into the Act)	120 months	360 months
Average period of custody passed	35.73 months	38.94 months

Although the proportion of accused who received custodial sentences for these two offences increased since the new Act was gazetted (namely, 69% of offenders given custodial sentences before February 2017 compared to 90% after that date), the length of imprisonment has not increased significantly, and remains well below the maximum sentence punishable for these offences (up to 30 years' imprisonment), as shown in Figure 15. Moreover, the longest custodial sentence passed for elephant and rhino related crimes, i.e. 96 months (8 years) during the study period was passed under the old Act (November 2016).

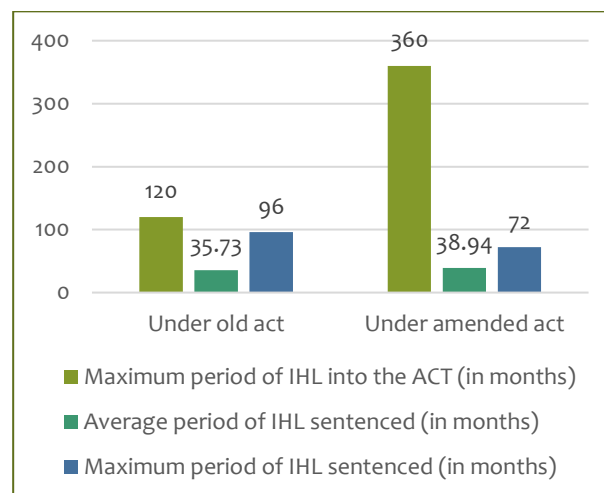


Figure 15 : Comparison between maximum period of custodial sentences (IHL) under old/new Act; average length of custodial sentenced by the magistrates; maximum custodial sentence passed during that periods (1st July 2016-7 february 2017/8 february 2017-30 june

OTHER NOTES AND OBSERVATIONS

DATA COLLECTION

Other concerns include problems associated with the absence of computers in the magistrates' courts. Hand written files are difficult to read and no central record of convictions which makes it very difficult to track repeat offenders or find historic records. In regard to the High Court, the European Union has funded computers for all judges and clerks in order to have a computerised case management system. Unfortunately, some of the judges are not yet using this new system. In practise, the court monitors have found it difficult to obtain information on confirmations of cases and appeal cases. There needs to be a review of such information, as a case is not officially completed until it has been confirmed.

QUALITY OF INVESTIGATIONS

Investigators were lacking resources in order to be able to follow every lead. Many cases, particularly in the pre-project period, were handled by low level officers who had not received specialist training in wildlife crime investigation. A specialist wildlife crime department was established in DNPW and MPS due to the significant level of expertise required to effectively investigate wildlife crime; particularly elephant and rhino trafficking and trade. The teams are led by a highly trained officer who have received specialist training from the US Fisheries and Wildlife Law Enforcement experts amongst others. Ideally, all

serious wildlife crimes should be investigated by these specialist teams. However, some wildlife cases are still being dealt with by lower ranked officers which has contributed to mischarging on cases.

ADJOURNMENTS

Throughout the whole study period, adjournments have been granted too easily by the Judiciary. Of the 179 persons accused of elephant or rhino crimes, 91 had their case adjourned, i.e. more than 50% of the cases. This proportion of adjournments significantly adds to the length and cost of prosecutions. Obviously, the length of the prosecution might also be very harmful for the accused. For example, in *Case n°504/16, the republic v. Mathews Nkhoma*) the accused was acquitted but only after being in custody for 184 days. This is not an isolated case – c. 8% of the accused remanded in custody were then sentenced with a fine only.

PROCEEDS OF CRIME

In many cases, the trophies of elephant and rhino were forfeited back to the government, as well as weapons and devices. But from the data, there are no cases where the prosecution made proceeds of crime applications, namely for cash or property connected with the elephant or rhino crimes. However, the researchers did find one recent case concerning forestry offences where forfeiture and proceeds of crime applications were made (*The Republic v. Davite Epaulani and 34 others*, Case number 1745/16, CRM Court, Southern Region). The High Court has confirmed the forfeitures, which now endorse forfeiture in such circumstances. Similar proceedings should be made for wildlife crimes.

4. DISCUSSION POINTS

COOPERATION

Although there is still a room for improvement regarding the accuracy and completeness of courtroom data, the figures presented in this report depend, to a great extent, on the close cooperation observed between the law courts and prosecuting agencies. The close co-operation with these bodies and LWT, CFJ and DNPW was very effective, especially at the Magistrates' Court level in collecting data. Nevertheless, there is still a need to address the data gaps as described in Section 2.

DATA COLLECTION AND CASE MANAGEMENT

The current non-electronic and decentralised data management system for magistrate court records is a cause for concern. It is almost inevitable that some wildlife crime court cases are missing from the records and that several of those present, especially during the pre-project period, are incomplete. The new project database should help overcome this issue, as should the forthcoming central wildlife crime database in DNPW. Both of these databases will centrally store information on wildlife crimes cases, with the former primarily focused on court records. The project database will be made available to DNPW and State prosecutors.

LWT will work to continue to make improvements to the project database e.g. by increasing the elements of data collected during the trials. It must match with the judiciary and prosecution needs and our joint objective to trace repeat offenders of wildlife crime. This data collection tool must also help the relevant stakeholders involved in wildlife crime reduction, including the State, to make their own actions more efficient. For example, by giving more information about an offender's profile we can more precisely understand wider education and sensitization needs etc. that will help reduce wildlife crimes.

TYPE OF CRIMES

As shown above, the majority of wildlife offences have been charged under the National Park and Wildlife Act. Apart of the NPWA, the Firearms Act has been used in relation to wildlife poaching. However, there have been many cases during this project where

there was potential to charge under offences from outside the NPWA, especially with regards to crimes related to wildlife trafficking. An example is the Money Laundering Act, now replaced by the Financial Crimes Act, where charges such as money laundering could be used (this Act has been used in one case only). Other Acts include the Corrupt Practices Act, Customs and Excise Act, Immigration Act, Forestry Act and the Penal Code, amongst others. The recently published Legal Handbook for Investigators and Prosecutors in Malawi should help address this issue²¹.

TYPE OF OFFENDERS

As shown in the findings above, across both the pre-project and project periods, foreign nationals were less seriously sentenced by the Malawian courts for the same crimes than Malawian nationals. This is concerning and these clear discrepancies in sentencing need to be addressed by the Judiciary. It has also been observed that the majority of foreign nationals who have been fined have paid their fines on the day of sentence, often in cash. No foreign national has defaulted on their fine sentences.

With the knowledge that the IWT is being driven by demand from outside Malawi, sentences should reflect this and more work should be done to raise awareness of the trafficking value chain inside the courts. In addition, those travelling into Malawi must continue to be warned about the substantial penalties associated with committing offences linked with wildlife e.g. continuing and updating the sensitization campaign at the international airports, and extending it to land border entry and exit points.

REMAND STATUS

The increase in remands into custody indicates that the Judiciary have started to change their mind set in terms of viewing elephant, rhino and other wildlife cases as more serious, organised crimes. Indeed, magistrates have a duty to give a remand status to every accused that comes before them. This duty is of the utmost importance in regard to the prosecution of wildlife trading and trafficking related crimes. Without a remand decision, the risk of flight of the accused is strong and it shows again, a lack of understanding,

²¹ Hand book for law enforcement agencies on the use of Legislation in wildlife crime prosecutions. Malawi government, DNPW, RSPCA International, UKAid, Stop Ivory.

especially pre-project, of the organised cross-border nature of serious wildlife crimes. The remand status should reflect the possible sentence that the accused may receive if convicted (for example remand in custody if the accused is charged with a serious offence like possession or dealing in a large quantity of ivory).

Due to the increase in remand of the accused during the project period, trials have become more efficient because of custody time limits. However, at the time of writing this report, two very serious cases were still outstanding for over a year. One accused has been remanded into custody since December 2016 and the case is yet to be concluded.

INVESTIGATION AND PROSECUTION COOPERATION

As observed earlier, many charges were incorrectly made in regard to investigations. In many cases the police made the correct charges and the prosecutor independently applied different charges when in court. In some serious cases, a pre-trial meeting to discuss the charges have been organised with the prosecution, investigators, DPP and external counsel. However, in the majority of cases, it seems that little communication between the prosecution and investigation had occurred before the first hearing.

The lack of co-operation leads to errors and consequentially, acquittals at trial. One example of this is a case in the pre-project period, where the accused who had killed a protected species, had been charged with theft by trick rather than under the NPWA (*Case n°357/16 The Republic v. Nabwereko*). The court dismissed the theft by trick charge because it was an inappropriate charge in the circumstances. Since DNPW and LWT have been involved in prosecution it seems charging by the police has improved and that a multi-agency approach will assist.

Nevertheless, the continued monitoring of charging by DNPW and NGOs remains a priority as there is a need to ensure that the enforcement of the new law is as strong as possible. With the new NPWA Amendment, additional training will be required for State prosecutors to help ensure that they are applying the correct charges and that the charges result in appropriate sentences.

ADJOURNMENTS

Adjournments create additional opportunities for corruption, tampering of evidence, witness fatigue and absconding of the accused. Significantly, they waste costs associated with the prosecution, defence and the Judiciary when running hearings. Training to sensitise the Judiciary on the use of their adjournment powers are needed, particularly, as the practise of 'Wasted Costs Orders' is not utilised in Malawi.

EFFECTIVENESS OF PRIVATE PROSECUTIONS/COURT ROOM MONITORING

As shown in the analysis, we have seen that the new private-public prosecution model approved by the DPP has proved to be very effective for securing convictions and custodial sentences of serious wildlife crime offenders. However, the cases prosecuted by MPS and DNPW, with LWT and CFJ courtroom monitors attending court, were also very effective in helping to improve conviction and custodial rates (average conviction rate of 94% and custodial rate of 84%).

An efficient and effective strategy to help to improve wildlife crime court outcomes would seem be the allocation of a (cheaper) courtroom monitor for the majority of wildlife crime cases and the deployment of direct (and more costly) private Counsel for the fewer, most serious and complex cases. Implementing these measures in Malawi certainly helped strengthen judicial response. Indeed, during the project period, when no courtroom monitors or private prosecutor was deployed to a case, the conviction rate fell dramatically and the custodial rate was zero.

COURT OUTCOME AND SENTENCING

During the project period, and within sensitisation workshops, the Judiciary have demonstrated an increased intention to treat wildlife and environmental offences more seriously, which is also in line with the current Government policy.

This improved awareness is observable when looking at the change in sentencing since the commencement of the project: the percentage of offenders being sent to prison without the option of a fine increased dramatically during the project period. However, the data showed that some magistrates are still sentencing using low fines, even for serious wildlife

crimes, especially when cases are not monitored. This inconsistency needs to be resolved.

One option is for NGOs and government partners to deliver sensitisation workshops to all members of the magistracy in Malawi, referring to the new wildlife Act and new government policies related to poaching and trafficking. In addition, inconsistencies between magistrates and courts will be significantly aided by the introduction of sentencing guidelines for wildlife crimes. LWT is a partner on a project to develop and disseminate these to the courts.

NEW WILDLIFE ACT

It was observed that the custodial rate for elephant and rhino offences was greater after the amendment came into force (69% pre V. 90% post). However, the average length of imprisonment has not significantly increased since the Act was gazetted, in spite of the amendment increasing the maximum custodial penalty from 10 to 30 years in prison. Therefore, the effect of the NPWA amendment must be moderated and its implementation and interpretation in the courts monitored over the next few months and years. This will enable a more accurate assessment of the longer-term impact of the new law. Further sensitization and case review workshops with prosecutors and the Judiciary could assist this.

Irrespective of this, the findings convey the importance of effective enforcement of a law i.e. significant stiffening of sentencing occurred almost immediately after the project commenced in July 2016, which was eight months before the new law came into force. Evidently, tougher laws are important, but stronger laws can achieve little unless they are properly enforced by government and upheld by the Judiciary. Therefore effective law enforcement, at all levels, must also be sustained and must continue to generate disruptive arrests and deterrent convictions of wildlife criminals.

5. RECOMMENDATIONS

COLLABORATION

- The co-ordination and co-operation between MPS (investigation) and the prosecution needs to be increased significantly; namely by holding pre-trial meetings to investigators, prosecutors (including external counsel) and expert witnesses to discuss the most appropriate charges and collect sound evidence.
- NGOs and DNPW to utilise existing citizen participation structures within the Judiciary, such as the National and District Court Users Committees, to create awareness among court users on the serious nature and character of wildlife crimes and the importance of wildlife conservation and accurate wildlife crime reporting.

DATA COLLECTION AND CASE MANAGEMENT

- Improve offender profiling by refining data management to better track repeat offenders and avoid data duplications (date of arrest, place of arrest, offender gender and age, trophy origin...). Increasing data collection at arrest and from inside the courts while monitoring will help achieve this.
- Set up a proper classification and electronic storage of all judgements on centralised databases.
- Train DNPW (and/or Judiciary institution responsible for wildlife crimes data collection) to use the database and data collection forms for the purpose of sustainability. As a part of the collaboration, set up regular meetings to combine and cross check data with all relevant institutions.

INVESTIGATION AND PROSECUTION

- Support specialised wildlife crime enforcement units to ensure anti-poaching and anti-trafficking arrests. Enforcement should be across all key enforcement agencies.
- Implement a combination of private-public prosecution and courtroom monitoring to improve outcomes of wildlife crime court cases. They should be implemented long-term and across Malawi.
- Retrain, reinforce and sensitise all investigators and prosecutors in how to use the

excellent “*Handbook for law enforcement agencies on the use of legislation in wildlife crime prosecutions*” including the model charge sheets. The handbook must be available at all levels of prosecution and kept up to date. It must include updates from case law.

- Strengthen trainings and sensitization of investigators and prosecutors with regards to the NPWA Amendment and forthcoming Regulations. The objective of these trainings must be to prevent mischarging.

LEGISLATION AND JUDICIARY PRACTICE

- Strengthen trainings and sensitization of Judiciary to the NPWA Amendment and forthcoming Regulations. The objective of these trainings must be to foster consistent case law with the development of the new legislation.
- Implement regular case review workshops with the Judiciary to encourage the development of consistent wildlife crime case law in Malawi.
- Any serious wildlife crimes should be dealt with by CRMs and SRMs. Furthermore, cases involving serious organised crime, should be committed to the High Court whenever feasible.
- Confirmations of Magistrate judgements by the High Court must be prompt and made publicly available.
- Sentencing guidelines related to the offences listed by the NPWA should be developed to help guide magistrates and ensure sentencing is in fitting with the new NPWA amendment. NGOs should assist by disseminating these to the courts.
- Encourage the use of the confiscation and forfeiture sections within the NPWA, Customs and Excise Act and Financial Crimes Act.
- NGOs and DNPW to set up a “legal watch” of court judgements from surrounding countries in order to share stories and knowledge from the region with regards to serious wildlife crime. This will help share regional jurisprudential case law. The proposed SADC wide database called the Wildlife Legal Information Institute (WildlifeLii) could be a useful development and Malawi is encouraged to engage if appropriate.

SENSITISATION

- Strengthen awareness campaign/sensitisation programs focusing on law and penalties incurred for wildlife crime. These should target potential offenders in border posts, trading centres, cities and local communities. Local community leaders must be engaged and special attention paid to Community Courts adjacent to protected areas. Communities must be made aware of legislation evolutions and the new penalties attached to wildlife crime.
- Government and NGOs should seek to publish all serious wildlife crime judgments and always share judgments from the appellate courts with the magistrate courts (who continue to deal with the majority of wildlife crime cases).

6. CONCLUSION

Malawi has come a long way since the days of passing fines of MK10, 000 (c. \$20) for possession or dealing in elephant ivory. The passing of the NPWA amendment, which contains some of the toughest penalties in the SADC region, is a strong response by Malawi to those perpetrators committing wildlife crimes. However, there is a need to effectively enforce the law. As this report shows, Malawi has made significant progress in upholding national wildlife law, particularly since the introduction of the WCIU and the courtroom monitoring and private prosecution project.

However, there are still areas of limitation that give rise to additional sensitization and training needs for wildlife justice actors. For example, there are too many incomplete court records and adjournments are too common. There are also several inconsistencies from/between courts across the country. This could reflect potential corrupt practices and it is therefore important that these matters are addressed. IT systems, databases, further training and the comprehensive adoption of standard guidelines for prosecutors and the Judiciary will go some way to addressing these concerns.

In the interim, it is very encouraging that there is clear evidence from Malawi that the judicial response to wildlife crime is strengthening. It is pleasing to have witnessed the dramatic increase in custodial sentences for elephant and rhino crime during this

project. This improvement was, in large part, due to the introduction of the courtroom monitoring and public-private prosecution for wildlife crime trials. These interventions must continue but, going forwards, it is also expected that efforts will be made to ensure that outcomes become consistent across regions, courts, types of crime and nationality of the accused. It is too early to say what the effect of the NPWA amendment will be over time and, if adequately enforced, it is expected that this new law will deliver higher sentences, commensurate with the seriousness of wildlife crime, and thereby will further demonstrate Malawi's strong stance against wildlife crime.

In response, it can be expected that wildlife criminals will become more sophisticated when conducting their crimes and cases will be more difficult to investigate, prosecute and secure convictions for. Therefore, it is essential that law government agencies are supported to help them improve the enforcement of the law and continue to stop wildlife crime syndicates from damaging Malawi and tarnishing the country's international reputation.

Much has improved, but to comprehensively combat wildlife crime, Malawi must continue building on their progressive, multi-agency stance against such crimes and not revert to previous systems which led to low level and, therefore, non-deterrent sentences. The recommendations made in this report will help ensure this transpires. It is hoped that the government, Judiciary and NGO partners will receive the support they need to implement them.

APPENDICES

APPENDIX 1. FINDINGS PER YEAR

This table and figures below show the main findings of the study broken down per year. Yearly analysis is running from 1st July to 30th June (for example from 1st July 2010 to 30th June 2011...etc.).

The table and charts below only focus on elephant and rhino crime cases.

2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17
---------	---------	---------	---------	---------	---------	---------

Conclusion rate

N° of cases reviewed	12	8	14	11	12	6	55
N° of cases concluded	12	8	14	11	12	5	49
N° of accused persons (total)	16	9	17	12	17	8	100
N° of accused whose case concluded	16	9	17	12	17	6	81
Conclusion rate (in %)/total n° of accused	100%	100%	100%	100%	100%	75%	81%

Offences recorded (NPWA, main offences)

Hunting	5	0	1	0	2	0	4
Possession of protected species	9	5	7	5	8	2	64
Export/Import protected species	1	3	9	6	8	0	2
Dealing with government trophies	0	0	0	0	0	0	20

Plea

Plea status recorded (for the total accused)	8	1	5	5	4	2	54
% of plea recorded/total accused	50%	11%	29%	42%	24%	25%	54%
Guilty plea	7	0	2	2	1	2	25
% of guilty plea recorded/total accused	44%	0%	11%	17%	6%	25%	25%
Not guilty plea	1	1	3	3	3	0	29
% of not guilty plea recorded/total accused	6%	11%	18%	25%	18%	0%	29%

Remand status

Remand status recorded (for the total accused)	0	2	3	3	0	2	79
% of status recorded/total accused	0%	22%	18%	25%	0%	25%	79%
Remanded in custody	0	2	2	2	0	2	58
% of remanded in custody/total accused	0%	22%	12%	17%	0%	25%	58%
Remanded on bail	0	0	1	1	0	0	21
% of remanded on bail/total accused	0%	0%	6%	8%	0%		21%

Conviction rate

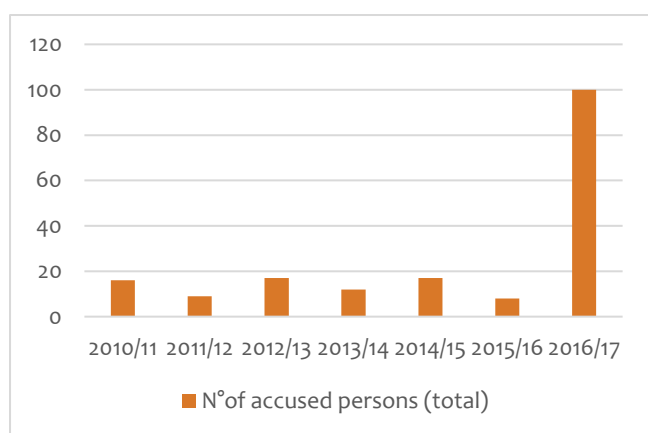
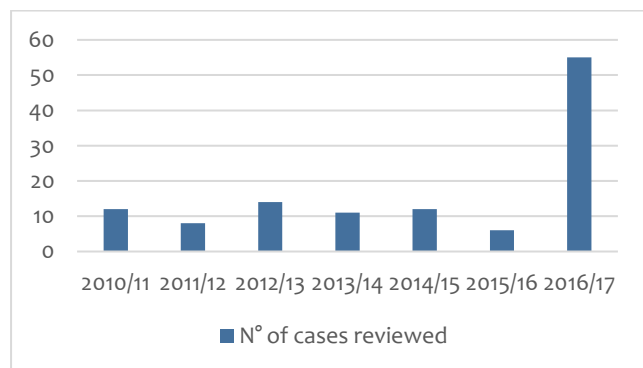
N° of convicted	16	9	17	12	17	4	75
% of convicted/total accused	100%	100%	100%	100%	100%	67%	93%
N° of acquitted	0	0	0	0	0	2	6
% of acquitted/ total accused	0%	0%	0%	0%	0%	33%	7%

Sentencing

N° of custodial sentences given	0	0	1	0	1	0	58
% of custodial sentences/convicted	0%	0%	6%	0%	6%	0%	77%
N° of fines given	11	9	16	12	15	2	15
% of fine rate	69%	100%	94%	100%	88%	50%	20%
Minimum amount of fine passed	5,000	6,000	5,000	35,000	20,000	50,000	5,000
Maximum amount of fine passed	50,000	150,000	2,500,000	1,000,000	1,000,000	300,000	2,250,000
N° of suspended sentences/convicted	5	0	0	0	0	1	1
Other sentence	0	0	0	0	1	1	1

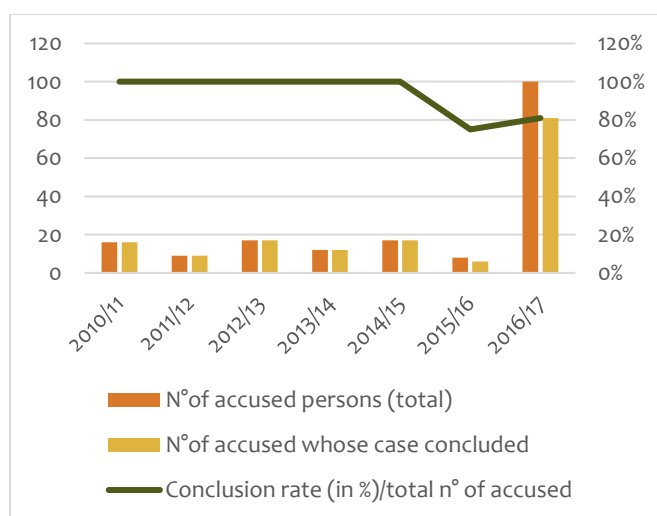
CASES REVIEWED

Number of cases reviewed and accused taken to court for each year from 2010 to 2017.



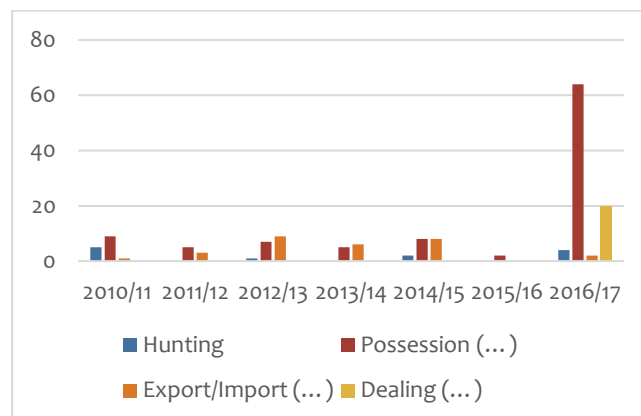
CONCLUSION RATE

Conclusion rate compared to the total number of accused persons. Per year from 2010 to 2017.



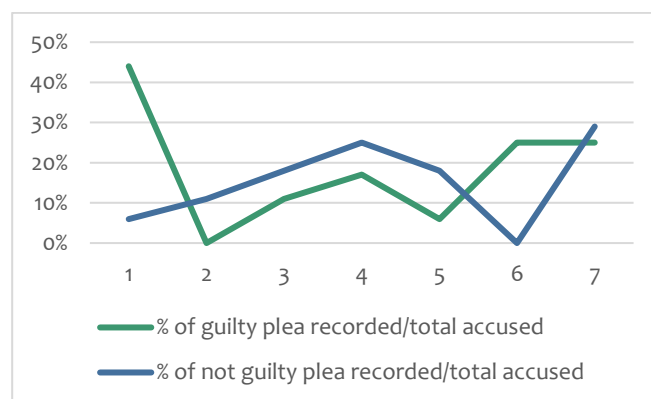
OFFENCE

Offences recorded under National Park and Wildlife act (old then amended act) per year from 2010 to 2017.



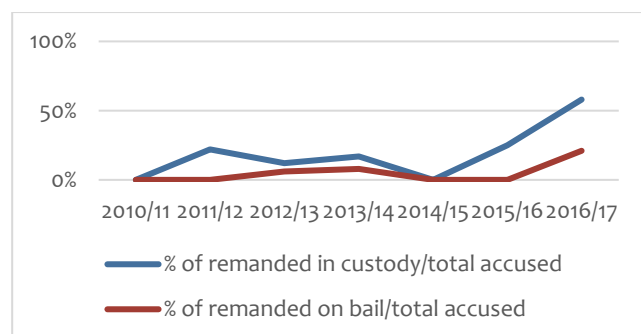
PLEA

Percentage of guilty and not guilty plea recorded compared to the total number of accused from 2010 to 2017.



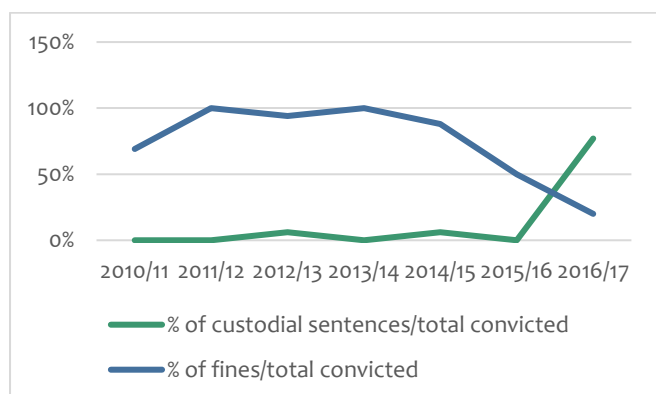
REMAND

Percentage of accused remanded in custody and remanded on bail compared to the total number of accused from 2010 to 2017.



SENTENCE

Percentage of custodial sentence and fines passed compared to the total of persons convicted from 2010 to 2017.



APPENDIX 2 CASE SUMMARY EXAMPLES

SOME CONCLUDED MONITORED CASES

The Republic vs. Christopher Masina and Others **Criminal Case No. 427 of 2016**

Court: Lilongwe Chief Resident Magistrate

Christopher Masina (Government Tourism Officer) and two others who were arrested in Lilongwe in August, 2016 were convicted and sentenced by CRM Chirwa to 3 years & 4 months in prison with hard labour on 26th September, 2016 for possession and dealing in government trophy (15 Kg raw ivory).

The Republic vs. Mandala Chirwa **Criminal Case No. 275 of 2016** **Court: Mchinji Magistrate Court**

Mandala Chirwa (husband to a prominent police officer), who was arrested at Mchinji in August 2016, was on 6th October 2016, convicted and sentenced by Judge Chinangwa to 5.5 years in prison with hard labour for possession and dealing in government trophy (24 Kg raw ivory).

The Republic Vs. Christopher Mwera **Court Case No. 504 of 2016** **Court: Chief Resident Magistrate Court, Lilongwe**

Christopher Mwera, who was arrested together with Mathews Nkhoma in Lilongwe on 20th August, 2016

for possession of 29 Kg of raw ivory, was on 26th September 2016 convicted and sentenced by CRM Chirwa to 3 years & 4 months in prison with hard labour for possession and dealing in government trophy. Mathews Nkhoma was acquitted on both counts.

The Republic Vs. Leman Wiscort **Court Case No. 547 of 2016** **Court: Lilongwe Chief Resident Magistrate Court**

Leman Wiscort, who was arrested on 2nd September, 2016 was convicted and sentenced by Judge Chinangwa to 3 years in prison with hard labour on 26th September, 2016 for possession and dealing in government trophy (7.4 Kg raw ivory).

The Republic Vs. Given Vwi Haiya **Court Case No. 91 of 2016** **Court: Chief Resident Magistrate, Zomba**

Vwi Given Haiya, who was arrested in Blantyre in September 2016, was on 22nd November 2016 convicted and sentenced by Chief Resident Magistrate Agnes Patambe to 8 years in prison with hard labour for dealing in a rhino horn.

The Republic Vs. Gromiko Zgambo **Court Case No. 1015 of 2016** **Court: Chief Resident Magistrate, Lilongwe**

Gromiko Zgambo, who was arrested in Kasungu on 12th November, 2017, was in January 2017 convicted and sentenced by SRM Yona to 3 years in prison with hard for illegal possession and dealing in of government trophy (19 Kg raw ivory).

The Republic Vs. Benjamin Paul & Bernard Phiri **Court Case No. 54 of 2016** **Court: Chief Resident Magistrate, Lilongwe**

Benjamin Paul and Bernard Phiri, who were arrested in Mchinji on 17th November, 2016 for possession and dealing in elephant bones shaped like elephant ivory. Only 1st accused Benjamin Paul was in December convicted and sentenced by Chief Resident Magistrate Ruth Chinangwa to 4.5 years in prison with hard labour for possession and dealing in government trophy (elephant bones). Bernard Phiri was acquitted on both counts.

The Republic Vs. Austin Kathira
Court Case No. 940 of 2016
Court: Chief Resident Magistrate, Lilongwe

Austin Kathira, who was arrested at Mponela on 15th December 2016, was convicted and sentenced to 4 years in prison with hard labour for illegal possession of government trophy (19 Kg raw ivory) by CRM Chirwa in January, 2017.

The Republic Vs. Nshimiye Tioneste
Case No. 962 of 2016
Court: Chief Resident Magistrate, Lilongwe

Nshimiye Tioneste, A Rwandan national, who was arrested on 26th December, 2016 in Lilongwe together with Rector Banda and Mike Masoambeta was separately tried, and was in June 2017 convicted and sentenced by CRM Chirwa to 3 years & 4 months for illegal possession and dealing in government trophy (12.5 Kg raw ivory & 2 Kg hippo teeth).

The Republic Vs. Rector Banda & Mike Masoambeta
Case No. 962 of 2016
Court: Chief Resident Magistrate, Lilongwe

Rector Banda and Mike Masoambeta who were arrested together with a Rwandan national, Nshimiye Tioneste in Lilongwe on 26th December, 2016 and tried separately, were convicted and sentenced by CRM Chirwa to 3 years in prison with hard labour for possession and dealing in government trophy (12.5 Kg raw ivory and 2 Kg hippo teeth)

The Republic Vs. Bright Chinkonde & Gerald Banda
Case No. 9 of 2017
Court: Chief Resident Magistrate, Lilongwe

Police Sergeant Bright Chinkonde and Gerald Banda who were arrested on 1st January 2017 in Kasungu, were convicted and sentenced by SRM Yona in February 2017 to 5 years in prison with hard labour for possession and dealing in government trophy (23 Kg raw ivory)

The Republic Vs. Obrein Tchalie
Case No. 37 of 2017
Court: Chief Resident Magistrate, Mzuzu

Obrein Tchalie, who was arrested in Mzuzu on 15th January, 2017 was in February convicted and

sentenced to 4 years in prison with hard labour by CRM Masoamphambe for illegal possession and dealing in government trophy (16.5 Kg raw ivory & 2 hippo teeth weighing 0.5 Kg)

The Republic Vs. Gift Zimba & William Banda
Case No. 213 of 2017
Court: Chief Resident Magistrate, Mzuzu

Gift Zimba and William Banda, who were arrested on 1st April, 2017 at Embangweni in Mzimba District for illegal possession and dealing in 5.4 kg raw ivory and 10 Kg elephant bones, were in the same month convicted and sentenced by Chief Resident Magistrate Texious Masoamphambe to 3 years & 6 months in prison with hard labour.

The Republic Vs. Seleman Katuli & Andrew Foster Nkhoma
Case No. 136 of 2017
Court: Chief Resident Magistrate, Lilongwe

Seleman Katuli and Andrew Foster Nkhoma, who were arrested in Mchinji on 3rd April 2017 were on 24th May 2017 convicted and sentenced by SRM Yona to 5 years in prison with hard labour for illegal possession and dealing in 6 pieces of raw ivory weighing 27.6 Kg.

The Republic Vs. Nelson Goma
Case No. 177 of 2017
Court: Chief Resident Magistrate, Lilongwe

Nelson Goma, a Zambian national who was arrested in Mchinji on 10th May, 2017 was in June 2017 convicted and sentenced to 4 years in prison with hard labour by SRM Yona for possession and dealing in protected species specimen (27 Kg raw ivory)

SOME CONCLUDED LITIGATED CASES

The State Vs. Reuben Kaunda & Others
Court Case No. 356 of 2016
Court: Chief Resident Magistrate Court, Lilongwe

Police officers Reuben Kaunda and Nelson Mpinganjira, and two civilians William Banda and Emmanuel Makhoza, who were arrested on 11th July 2016 in Lilongwe, were in November 2016 convicted and sentenced by Judge Chinangwa to 3 years in prison with hard labour for possession and dealing government trophy (27.5 Kg raw ivory).

The Republic Vs. John Sakala & Others
Court Case No. 546 of 2016
Court: Chief Resident Magistrate, Lilongwe

John Sakala (Zambian Army Captain), Sandu Kalimbo and Ronald Mawere, who were arrested in Mchinji in September, 2016 were convicted and sentenced by Judge Chirwa to 3 years & 4 months in prison with hard labour on 26th September, 2016 for possession of 4.5 Kg of raw ivory, 1 lion skin and 1 leopard skin.

The Republic Vs. Hope Kapalamula & Two Others
Case No. 928 of 2016
Court: Chief Resident Magistrate Court, Lilongwe

Hope Kapalamula Lali, Monica Mataka, and Rafik Ibrahim, who were arrested in Lilongwe on 13th December 2016 were in January 2017 convicted and sentenced to 3 years in prison with hard labour by CRM Chirwa for possession and dealing in government trophy (8.4 Kg raw ivory). They tried to appeal against the sentence but lost the case in May as the High Court upheld the sentence that handed down on them by the lower court.

The Republic Vs. Yereimiya Kachepatsonga
Case No. 948 of 2016
Court: Chief Resident Magistrate, Lilongwe

Yereimiya Kachepasonga, who was arrested in Lilongwe on 15th December 2016, was in January 2017 convicted and sentenced by CRM Chirwa to 3 years in prison with hard labour for illegal possession and dealing in protected species specimen (elephant bones shaped like ivory). Prosecution was done by LWT private lawyer, Andy Kaonga because the suspect bragged about having connections with higher authorities in government and threatened to deal with police prosecutors and investigators.

The Republic Vs. Winston Humba, Godfrey Kaludzi & Five Others
Case No. 961 of 2016
Court: Chief Resident Magistrate, Lilongwe

Godfrey Kaludzi, who was arrested in Lilongwe together with Winston Humba and five others between 22nd and 26th December, 2016 was on 15th March 2015 convicted and sentenced by CRM Chirwa to 4 years in prison with hard labour for possession

and dealing in protected species specimen (126 Kg ivory). He changed his earlier plea of not guilty to guilty on both counts.

APPENDIX 3. DATA BASE

Case n°	Offender first name	Offender Surname	Nature of offender	Offender nationality (National/ Foreigners)	Date of first hearing	Court location	Magistrate grade	Offence (section)		Trophy Weight (in kg)	Plea	Remand	Date concluded	Trial Outcome	Sentence imposed	Length of custodial sentence (in months)	Amount of the Fine (in Mkw)
173/2010	Positani	Bester	First time offender	National	21/11/2010	Salima		S.47 of NP and Wildlife Act				No remand status	21/11/2010	Guilty	SSO	3	
173/2010	Gevanala	Lubeni	First time offender	National	21/11/2010	Salima		S.47 of NP and Wildlife Act				No remand status	21/11/2010	Guilty	SSO	3	
173/2010	Gwaza	Mpinda	First time offender	National	21/11/2010	Salima	FGM	S.47 of NP and Wildlife Act			Not Guilty	No remand status	21/11/2010	Guilty	SSO	3	
173/2010	Jamitow	Bokho	First time offender	National	21/11/2010	Salima		S.47 of NP and Wildlife Act				No remand status	21/11/2010	Guilty	SSO	3	
139/11	Aljin	Benjamini	First time offender	Foreigner	01/01/2011	Mukula		S.47 of NP and Wildlife Act				No remand status	21/11/2010	Guilty	SSO	3	
17	Maxine	Nine	First time offender	Foreigner	10/02/2011	Mukula	FGM	S.86 of NP and Wildlife Act				No remand status	11/02/2011	Guilty	Fine	3	5,000.00
31/11	Ning	Nakning	First time offender	Foreigner	03/03/2011	Mukula	FGM	S.86 of NP and Wildlife Act				No remand status	04/03/2011	Guilty	Fine	30	20,000.00
60/11	Hua	Gangli	First time offender	Foreigner	06/03/2011	Mukula	FGM	S.86 of NP and Wildlife Act		1.5 MPS		Remanded on bail	06/03/2011	Guilty	Fine	5	50,000.00
79/11	Biao	Liang	First time offender	Foreigner	11/04/2011	Mukula	FGM	S.86 of NP and Wildlife Act		0.2 DNPW		Remanded on bail	12/04/2011	Guilty	Fine	6	20,000.00
13	Pheneas	Chiphwenya	First time offender	National	14/04/2011	Mukula	FGM	S.86 of NP and Wildlife Act		1 MPS		No remand status	15/04/2011	Guilty	Fine	12	50,000.00
73/11	Designant	Gulepe	First time offender	Foreigner	05/05/2011	Mukula	FGM	S.110 of NP and Wildlife Act		2.8 DNPW		No remand status	06/05/2011	Guilty	Fine	8	25,000.00
74/11	Florino	Francisco	First time offender	Foreigner	11/05/2011	Mukula	FGM	S.86 of NP and Wildlife Act		DNPW		No remand status	11/05/2011	Guilty	Fine	6	20,000.00
126/2011	Huang	Hongling	First time offender	Foreigner	21/05/2011	Mukula		S.98 of NP and Wildlife Act			Not Guilty	No remand status	21/05/2011	Guilty	Fine	6	10,000.00
16	Strange	Mkandawire	First time offender	National	26/05/2011	Lilongwe	FGM	S.86 of NP and Wildlife Act		21 MPS		No remand status	26/05/2011	Guilty	Fine	6	20,000.00
147/11	Xu	Dong	First time offender	Foreigner	18/06/2011	Mukula	FGM	S.86 of NP and Wildlife Act				No remand status	18/06/2011	Guilty	Fine	3	10,000.00
99/11	Francisco	Patrick	First time offender	National	25/07/2011	Mukula		S.98 of NP and Wildlife Act		3.3 DNPW		No remand status		Guilty	Fine		
99/11	Patrick	Francisco	First time offender	National	06/08/2011	Machinga	FGM	S.86 of NP and Wildlife Act				No remand status	11/08/2011	Guilty	Fine	30	50,000.00
187/11	Zhou	Le Chang	First time offender	Foreigner	12/08/2011	Mukula		S.98 of NP and Wildlife Act		DNPW		No remand status		Guilty	Fine	4	20,000.00
80/2011	Jun	Feng	First time offender	Foreigner	04/10/2011	Mukula		S.86 of NP and Wildlife Act		0.35 MPS		No remand status	04/10/2011	Guilty	Fine	6	20,000.00
15	Smart	Sandalamu	First time offender	National	26/11/2011	Mchiiji	FGM	S.86 of NP and Wildlife Act				No remand status	26/11/2011	Guilty	Fine	8	25,000.00
282/11	Bozhong	Gong	First time offender	Foreigner	19/12/2011	Mukula	FGM	S.86 of NP and Wildlife Act			Not Guilty	No remand status	19/12/2011	Guilty	Fine	3	150,000.00
88/12	Qizlyu	S	First time offender	Foreigner	12/05/2012	Mukula	FGM	S.86 of NP and Wildlife Act				Remanded in custody	20/05/2012	Guilty	Fine		
08/12	Quive	Zhang	First time offender	Foreigner	06/06/2012	Mukula	FGM	S.98 of NP and Wildlife Act				No remand status	06/06/2012	Guilty	Fine	6	6,000.00
233/12	Yan lu	Zhao	First time offender	Foreigner	16/06/2012	Mukula	FGM	S.86 of NP and Wildlife Act		6 MPS		Remanded in custody	28/06/2012	Guilty	Fine	20	60,000.00
2	Bozhong	Gong	Repeat offender	Foreigner	17/09/2012	Mukula	FGM	S.98 of NP and Wildlife Act				No remand status	17/09/2012	Guilty	Fine		5,000.00
256/12	Lou	Zhiyu	First time offender	Foreigner	24/09/2012	Mukula	FGM	S.86 of NP and Wildlife Act		10.4 MPS		No remand status	24/09/2012	Guilty	Fine	18	200,000.00
11/2013	Yuxiang	Zhang	First time offender	Foreigner	21/12/2012	Mukula		S.98 of NP and Wildlife Act		DNPW		No remand status	21/12/2012	Guilty	Fine	20	20,000.00
14/13	Hua	Chen	First time offender	Foreigner	08/01/2013	Mukula	FGM	S.86 of NP and Wildlife Act				Remanded in custody	09/01/2013	Guilty	Fine	18	25,000.00
31/2013	Chuxin	Wang	First time offender	National	13/01/2013	Lilongwe		S.98 of NP and Wildlife Act		DNPW		No remand status	13/01/2013	Guilty	Fine	5	100,000.00
23/2013	Tan	Bing	First time offender	Foreigner	13/01/2013	Lilongwe	SRM	S.98 of NP and Wildlife Act		0.3 DNPW		Remanded in custody	29/01/2013	Guilty	Fine	6	20,000.00
23/13	Pan	Yi	First time offender	Foreigner	26/01/2013	Lilongwe		S.86 of NP and Wildlife Act				Remanded on bail	24/02/2013	Guilty	Fine		
85/13	Qizlyu	S	First time offender	Foreigner	16/02/2013	Mukula	FGM	S.86 of NP and Wildlife Act		2 DNPW		No remand status		Guilty	Fine	6	65,000.00
27/2013	Kailiang	Ji	First time offender	Foreigner	23/02/2013	Mukula		S.98 of NP and Wildlife Act				No remand status		Guilty	Fine	15	20,000.00
85/2013	Wang	Juhai	First time offender	Foreigner	27/02/2013	Mukula		S.98 of NP and Wildlife Act		1.5 DNPW		No remand status		Guilty	Fine	12	20,000.00
85/2013	Gong	Harmin	First time offender	Foreigner	27/02/2013	Mukula		S.33 of NP and Wildlife Act, S.47 of NP and Wildlife Act		1.5 MPS		No remand status	16/05/2013	Guilty	IHL	36	
33/2013	Yan lu	Zhao	Repeat offender	National	09/05/2013	Salima		S.98 of NP and Wildlife Act				No remand status		Guilty	Fine	24	60,000.00
194/2013	Tiansum	Lu	Repeat offender	Foreigner	13/05/2013	Mukula		S.98 of NP and Wildlife Act		1.4 DNPW		No remand status	16/05/2013	Guilty	Fine	18	35,000.00
1/15	Chancy	Kaunda	First time offender	National	23/05/2013	Mauzu	CRM	S.86 of NP and Wildlife Act		2600 MPS		No remand status	07/11/2014	Guilty	Fine	12	2,500,000.00
1/15	Patrick	Kaunda	First time offender	National	23/05/2013	Mauzu	CRM	S.86 of NP and Wildlife Act				No remand status	07/11/2014	Guilty	Fine	12	2,500,000.00
7	Happy	Shora	First time offender	National	14/06/2013	Nalja	FGM	S.86 of NP and Wildlife Act		6.6 MPS		No remand status	14/06/2013	Guilty	Fine	15	150,000.00
5	Dickson	Mzimba	First time offender	National	27/07/2013	Salima		S.98 of NP and Wildlife Act		DNPW		No remand status	25/07/2014	Guilty	Fine	24	40,000.00
351/13	Kasha	Kwenda	First time offender	Foreigner	04/09/2013	Mukula	FGM	S.86 of NP and Wildlife Act		118 DNPW		Remanded in custody	04/09/2014	Guilty	Fine	15	150,000.00
131/13	Hai Zhou	Zhu	First time offender	Foreigner	17/10/2013	Mukula	FGM	S.86 of NP and Wildlife Act				No remand status	20/10/2013	Guilty	Fine	18	35,000.00
14	Quang	Lu Jian	First time offender	Foreigner	23/11/2013	Mukula		S.98 of NP and Wildlife Act				No remand status	23/11/2013	Guilty	Fine	72	65,000.00
8	Harid	Atapaphwi	First time offender	National	07/01/2014	Mukula		S.98 of NP and Wildlife Act		120 MPS		No remand status	27/06/2014	Guilty	Fine	24	310,000.00
6/14	Gulamu	Aridi-Nathaphi	First time offender	National	14/01/2014	Lilongwe	SRM	S.86 of NP and Wildlife Act				Remanded in custody	27/01/2014	Guilty	Fine	24	310,000.00
03/2014	Moses	Mumba	First time offender	National	01/03/2014	Kasungu		S.98 of NP and Wildlife Act		DNPW		No remand status	25/07/2014	Guilty	Fine	24	40,000.00
03/2014	Chisomo	Phiri	First time offender	National	01/03/2014	Kasungu		S.98 of NP and Wildlife Act				No remand status	25/07/2014	Guilty	Fine	24	40,000.00
127/2014	Nuude	Ndubuse	First time offender	National	24/03/2014	Mukula		S.98 of NP and Wildlife Act				No remand status	24/03/2014	Guilty	Fine	18	100,000.00
237/14	Michael	Kingsley Phiri	First time offender	National	09/04/2014	Lilongwe	TGM	S.86 of NP and Wildlife Act		74 DNPW		No remand status	09/04/2014	Guilty	Fine	72	1,000,000.00
377/2014	Hayuan	Li	First time offender	Foreigner	13/05/2014	Mukula		S.98 of NP and Wildlife Act		1.1 MPS		No remand status	13/05/2014	Guilty	Fine	12	80,000.00
10	U	Yong	First time offender	Foreigner	03/06/2014	South Lurzu	FGM	S.86 of NP and Wildlife Act				Remanded on bail	03/06/2014	Guilty	Fine	60	100,000.00
03/2014	Dickson	Mzimba	Repeat offender	National	25/07/2014	Kasungu		S.33 of NP and Wildlife Act, S.47 of NP and Wildlife Act		DNPW		No remand status	25/07/2014	Guilty	Fine	24	40,000.00
12	Mwembere	Blessings	First time offender	National	01/08/2014	Chileka		S.98 of NP and Wildlife Act				No remand status	01/08/2014	Guilty	Fine		
3	Robert	Chisla	First time offender	National	17/09/2014	Mchiiji		S.86 of NP and Wildlife Act		2 MPS		No remand status	18/09/2014	Guilty	Fine	18	40,000.00
3	Oscar	Mchanbo	First time offender	National	17/09/2014	Mchiiji		S.86 of NP and Wildlife Act		2 MPS		No remand status	18/09/2014	Guilty	Fine	18	40,000.00
3	Alford	Banda	First time offender	National	17/09/2014	Mchiiji		S.86 of NP and Wildlife Act		2 MPS		No remand status	18/09/2014	Guilty	Fine	18	40,000.00
677/14	Mark	Nyrenda	First time offender	National	17/09/2014	Lilongwe	SRM	S.98 of NP and Wildlife Act		50 MPS/DNPW		No remand status	17/09/2014	Guilty	Fine	60	1,000,000.00
677/14	Avin	Zhuang	First time offender	Foreigner	17/09/2014	Lilongwe	SRM	S.98 of NP and Wildlife Act		50 MPS/DNPW		No remand status	17/09/2014	Guilty	Fine	60	1,000,000.00
3	Chimimba	Kabila	First time offender	National	18/09/2014	Mchiiji		S.86 of NP and Wildlife Act		2 MPS		No remand status	18/09/2014	Guilty	Fine	18	40,000.00
20/2011	Jennifer	Lee	First time offender	Foreigner	12/10/2014	Mukula	FGM	S.98 of NP and Wildlife Act		3.5 MPS		No remand status	12/10/2014	Guilty	Fine	24	60,000.00
20/2011	Zhang xiang	Qulan	First time offender	Foreigner	12/10/2014	Mukula	FGM	S.98 of NP and Wildlife Act		3.5 MPS		No remand status	12/10/2014	Guilty	Fine	24	60,000.00

Case n°	Offender first name	Offender Surname	Nature of offender	Offender nationality (Nationals/ Foreigners)	Date of first hearing	Court location	Magistrate grade	Offence (section)	Trophy Weight (in kg)	Prosecutor body	Plea	Remand	Date concluded	Trial Outcome	Sentence imposed	Length of custodial sentence (in months)	Amount of the Fine (in Mkw)
1	Chia	Lai	First time offender		18/10/2014		FGM	S.98 of NP and Wildlife Act		MPS	Not Guilty	No remand status	18/10/2014	Guilty	Fine		1,000,000.00
8	Lai	Chiu	Repeat offender		18/10/2014	Mkukula	FGM	S.86 of NP and Wildlife Act	8	MPS	Not Guilty	No remand status	21/10/2014	Guilty	Fine	8	45,000.00
9	Lai	Chiu	Repeat offender		18/10/2014	Mkukula	FGM	S.98 of NP and Wildlife Act	40						Fine	0	1,000,000.00
11	Joseph	Kadyakukuma	First time offender		20/10/2014	Kapiri	FGM	S.86 of NP and Wildlife Act		MPS	Not Guilty	No remand status	20/10/2014	Guilty	Fine	6	50,000.00
233/14	Zhao	Jariju		Foreigner	22/10/2014	Mkukula	FGM	S.86 of NP and Wildlife Act		DNPW	Not Guilty	No remand status		Guilty	Fine	20	60,000.00
99/14	Fumbani	Khunga	Repeat offender	National	31/10/2014	Mzuzu	FGM	S.86 of NP and Wildlife Act		MPS	Not Guilty	No remand status		Guilty	Fine		20,000.00
6	Dickson	Mimba	First time offender	National	11/01/2015	Ulongwe		S.47 of NP and Wildlife Act, S.86 of NP and Wildlife Act						Guilty	IHL		0.00
290/15	Chrissy	Thera	First time offender	National	21/08/2015	Mzuzu	CRM			MPS		No remand status		Guilty	SSO	12	
524/15	Zhang	Hongchi	First time offender	Foreigner	31/08/2015		FGM	S.86 of NP and Wildlife Act		MPS		Remanded in custody	02/09/2015	Guilty	Fine	12	50,000.00
776/15	Misheck	Banda	First time offender	National	16/10/2015	Kasungu	FGM	S.32 of NP and Wildlife Act		MPS	Guilty	No remand status	22/10/2015	Guilty			
91/2016	Moses	Medson	First time offender	National	15/02/2016	Zomba	CRM	S.91 of NP and Wildlife Act					09/09/2016	Not guilty			
91/2016	Steven	Matope		National	15/02/2016	Zomba	CRM	S.91 of NP and Wildlife Act					09/09/2016	Not guilty			
213/16	Chimwenwe	Mwosoya	First time offender	National	18/02/2016	Mzuzu	FGM	S.86 of NP and Wildlife Act		MPS	Guilty	Remanded in custody	29/02/2016	Guilty	Fine	12	300,000.00
357/2016		Naweroko	First time offender	National	12/05/2016	Ulongwe	CRM	S.86 of NP and Wildlife Act	120							0	0.00
357/2016	Mike	Chunga	First time offender	National	12/05/2016	Ulongwe	CRM	S.86 of NP and Wildlife Act	120							0	0.00
356/16	Emmanuel	Makhoza	First time offender	National	11/07/2016	Ulongwe	CRM	S.86 of NP and Wildlife Act, S.91 of NP and Wildlife Act	27.5	MPS	Not Guilty	Remanded in custody	01/11/2016	Guilty	IHL	36	
356/16	William	Banda	First time offender	National	11/07/2016	Ulongwe	CRM	S.86 of NP and Wildlife Act, S.91 of NP and Wildlife Act							IHL	24	
356/16	Nelson	Mbinganjira	First time offender	National	11/07/2016	Ulongwe	CRM	S.86 of NP and Wildlife Act, S.91 of NP and Wildlife Act							IHL	36	
356/16	Reuben	Kaunda	First time offender	National	11/07/2016	Ulongwe	CRM	S.86 of NP and Wildlife Act, S.91 of NP and Wildlife Act							IHL	36	
427/16	Christopher	Masina	First time offender	National	27/07/2016	Ulongwe	CRM	S.86 of NP and Wildlife Act	15	MPS	Guilty	Remanded in custody	26/09/2016	Guilty	IHL	40	
428/16	Ackim	Bwanali	First time offender	National	08/08/2016	Ulongwe	CRM	S.86 of NP and Wildlife Act	3.6	MPS	Guilty	Remanded in custody	12/08/2016	Guilty	IHL	36	
366/16	Frazer	Sobahla	First time offender	National	12/08/2016	Ulongwe	SRM	S.86 of NP and Wildlife Act		MPS	Not Guilty	Remanded on bail					
366/16	Jamies	Njale	First time offender	National	12/08/2016	Ulongwe	SRM	S.86 of NP and Wildlife Act	3.3	MPS	Not Guilty	Remanded on bail					
38/16	Augustine	Nyrenda	First time offender	National	15/08/2016	Mzuzu	FGM	S.86 of NP and Wildlife Act	1.12	MPS	Guilty	No remand status	31/08/2016	Guilty	Fine	2	5,000.00
275/16	Mandala	Chirwa	First time offender	National	18/08/2016	Wchinja	CRM	S.86 of NP and Wildlife Act	24	MPS	Not Guilty	Remanded in custody	06/10/2016	Guilty	IHL	66	
504/16	Chikumbuso	Mwera	First time offender	National	28/08/2016	Ulongwe	CRM	S.86 of NP and Wildlife Act	29	MPS	Guilty	Remanded in custody	26/09/2016	Guilty	IHL	40	
504/16	Mathews	Nkhoma	First time offender	National	28/08/2016	Ulongwe	CRM	S.86 of NP and Wildlife Act		MPS	Not Guilty	Remanded in custody	28/02/2017	Not guilty			
91/16	Vui	Haya		National	01/09/2016	Zomba	CRM	S.91 of NP and Wildlife Act	7.4				22/11/2016	Guilty	IHL	96	
547/16	Leman	Wiscort	First time offender	National	02/09/2016	Ulongwe	CRM	S.86 of NP and Wildlife Act, S.91 of NP and Wildlife Act							IHL	36	
546/16	Sandu	Kalimbo	First time offender	Foreigner	09/09/2016	Ulongwe	CRM	S.86 of NP and Wildlife Act	4.5	MPS		Remanded in custody	26/09/2016	Guilty	IHL	40	
546/16	John	Sakala	First time offender	Foreigner	09/09/2016	Ulongwe	CRM	S.86 of NP and Wildlife Act	4.5	MPS	Not Guilty	Remanded in custody	26/09/2016	Guilty	IHL	40	
546/16	Ronald	Mawere	First time offender	Foreigner	09/09/2016	Ulongwe	CRM	S.86 of NP and Wildlife Act	4.5	MPS		Remanded in custody	26/09/2016	Guilty	IHL	40	
579/16	Cedrick	Moyo	First time offender	National	15/09/2016	Ulongwe	PRM	S.86 of NP and Wildlife Act	24.6	MPS	Guilty	Remanded in custody	19/09/2016	Guilty	IHL	30	
579/16	Maxon	Nhlane	First time offender	National	15/09/2016	Ulongwe	PRM	S.86 of NP and Wildlife Act	24.6	MPS	Guilty	Remanded in custody	19/09/2016	Guilty	IHL	30	
357/16	Dymon	Banda	First time offender	National	25/09/2016	Ulongwe	CRM	S.86 of NP and Wildlife Act	4.5	MPS	Guilty	Remanded in custody	21/10/2016	Guilty	Fine	12	250,000.00
357/16	Eunice	Gunde	First time offender	National	25/09/2016	Ulongwe	CRM	S.86 of NP and Wildlife Act	4.5	MPS			21/10/2016	Guilty	Fine	12	250,000.00
290/16	Lainesi	Makangala		National	26/09/2016	Zomba	CRM	S.86 of NP and Wildlife Act	4				26/09/2016	Not guilty			
290/16	Gracian	Mwarvani		National	26/09/2016	Zomba	CRM	S.86 of NP and Wildlife Act	4		Not Guilty	Remanded on bail	26/09/2016	Not guilty			
290/16	Chiyembekozo	Majola	First time offender	National	26/09/2016	Zomba	CRM	S.86 of NP and Wildlife Act	4		Not Guilty	Remanded on bail	26/09/2016	Not guilty			
643/16	Tsimani	Chenje	First time offender	National	26/09/2016	Ulongwe	PRM	S.86 of NP and Wildlife Act		MPS		No remand status	26/09/2016	Guilty	IHL	15	
632/16	Tryson	Gondwe	First time offender	National	02/10/2016	Ulongwe	CRM	S.32 of NP and Wildlife Act		MPS		Remanded in custody	21/11/2016	Guilty	IHL	24	
636/16	Tryson	Gondwe	First time offender		09/10/2016	Mzuzu	CRM	S.32 of NP and Wildlife Act, S.33 of NP and Wildlife Act, S.47 of NP and Wildlife Act, S.16 (1) of the fire arm act		MPS		Remanded in custody	21/11/2016	Guilty	IHL	36	
636/16	Manjarazi	Mhango	First time offender	National	09/10/2016	Mzuzu	CRM	S.32 of NP and Wildlife Act, S.33 of NP and Wildlife Act, S.47 of NP and Wildlife Act, S.16 (1) of the fire arm act		MPS	Not Guilty	Remanded in custody	21/11/2016	Guilty	IHL	36	
636/16	Justin	Nkhata	First time offender	National	09/10/2016	Mzuzu	CRM	S.32 of NP and Wildlife Act, S.33 of NP and Wildlife Act, S.47 of NP and Wildlife Act, S.16 (1) of the fire arm act		MPS	Not Guilty	Remanded in custody	21/11/2016	Guilty	IHL	36	
542/16	Jeremiah	Banda	First time offender	National	10/10/2016	Ulongwe	CRM	S.86 of NP and Wildlife Act	2.5	MPS	Guilty	Remanded on bail	10/10/2016	Guilty	IHL	6	70,000.00
96/16	Prince	Chikundi	First time offender	Foreigner	23/10/2016	Umba	FGM	S.86 of NP and Wildlife Act		MPS		Remanded in custody	30/11/2016	Guilty	Fine	9	75,000.00
367/16	Pilirani	Jose	First time offender	Foreigner	08/11/2016	Chikwawa	SGM	S.86 of NP and Wildlife Act		MPS		Remanded in custody	08/11/2016	Guilty	Fine		
827/16	Sopharet	Zakeyu	First time offender	National	13/11/2016	Ulongwe	SRM	S.86 of NP and Wildlife Act		MPS		Remanded in custody	13/11/2016	Guilty	IHL	12	
827/16	Arnold	Kunthiri	First time offender	National	13/11/2016	Ulongwe	CRM	S.86 of NP and Wildlife Act	1.6	MPS	Guilty	Remanded in custody	13/11/2016	Guilty	IHL	12	
827/16	Sofilei	Zakeyu	First time offender	National	13/11/2016	Ulongwe	CRM	S.86 of NP and Wildlife Act	4	MPS	Guilty	Remanded in custody	11/12/2016	Guilty	IHL	18	
828/16	Gerridue	Paulo	First time offender	National	14/11/2016	Ulongwe	CRM	S.86 of NP and Wildlife Act	4	MPS	Guilty	Remanded in custody	11/12/2016	Guilty	IHL	18	
828/16	Langston	Paulo	First time offender	National	14/11/2016	Ulongwe	CRM	S.86 of NP and Wildlife Act	4	MPS	Guilty	Remanded in custody	15/11/2016	Guilty	IHL	24	
832/16	Precious	Tembo	First time offender	National	15/11/2016	Ulongwe	CRM	S.86 of NP and Wildlife Act	2.7	MPS		Remanded in custody	15/11/2016	Guilty	IHL	24	
234/16	Oswald	Katontha	First time offender	National	17/11/2016	Ulongwe	CRM	S.91 of NP and Wildlife Act	12	MPS		No remand status		Guilty	Fine	24	350,000.00
234/16	Patricia	Banda	First time offender	National	17/11/2016	Ulongwe	CRM	S.91 of NP and Wildlife Act	12	MPS		No remand status		Guilty	Fine	24	350,000.00
234/16	Shepperd	Banda	First time offender	National	17/11/2016	Ulongwe	CRM	S.91 of NP and Wildlife Act	12	MPS		No remand status		Guilty	Fine	24	350,000.00
54/16	Benjamin	Phiri	First time offender	National	21/11/2016	Wchinja	CRM	S.86 of NP and Wildlife Act, S.91 of NP and Wildlife Act		MPS	Not Guilty	Remanded in custody	22/12/2016	Not guilty	IHL	54	
1089/16	Henry	Kamanga		National	05/12/2016	Kasungu	FGM	S.86 of NP and Wildlife Act, S.91 of NP and Wildlife Act	2		Guilty	Remanded on bail	07/12/2016	Guilty	Fine		150,000.00
1910/16	Ililala Cecilia	Bwanausi		National	12/12/2016	Blantyre	FGM	S.86 of NP and Wildlife Act	0.3		Guilty	Remanded on bail	13/12/2016	Guilty	Fine		200,000.00

Case n°	Offender first name	Offender Surname	Nature of offender	Offender nationality (Nationality/ Foreigners)	Date of first hearing	Court location	Magistrate grade	Offence (section)	Trophy Weight (in kg)	Prosecutor or body	Plea	Remand	Date concluded	Trial Outcome	Sentence imposed	Length of custodial sentence (in months)	Amount of the Fine (in Mkw)
1015/16	Gromiko	Zgambo	First time offender	National	15/12/2016	Kasungu	CRM	S.86 of NP and Wildlife Act	19	MPS	Not Guilty	Remanded in custody	29/12/2016	Guilty	IHL	36	
940/16	Austin	Kathira	First time offender	National	15/12/2016	Lilongwe	CRM	S.86 of NP and Wildlife Act	19	MPS	Guilty	Remanded in custody	22/12/2016	Guilty	IHL	48	
948/16	Yeremiah	Kacnepatsonga	First time offender	National	19/12/2016	Lilongwe	CRM	S.86 of NP and Wildlife Act		MPS		Remanded in custody	29/12/2016	Guilty	IHL	36	
928/16	Rafick	Ibrahim	First time offender	National	22/12/2016	Lilongwe	CRM	S.86 of NP and Wildlife Act	8.4	MPS		Remanded in custody	22/12/2016	Guilty	IHL	36	
928/16	Monica	Ma baka	First time offender	National	22/12/2016	Lilongwe	CRM	S.86 of NP and Wildlife Act	8.4	MPS	Not Guilty	Remanded in custody	22/12/2016	Guilty	IHL	36	
928/16	Hope	Kapalamula	First time offender	National	22/12/2016	Lilongwe	CRM	S.86 of NP and Wildlife Act	8.4	MPS	Not Guilty	Remanded in custody	22/12/2016	Guilty	IHL	36	
961/16	Godfrey	Kal luda	First time offender	National	26/12/2016	Lilongwe	CRM	S.86 of NP and Wildlife Act	126		Guilty	No remand status	15/03/2017	Guilty	IHL	48	
961/16	Amos	Kapea	First time offender	National	26/12/2016	Lilongwe	CRM	S.86 of NP and Wildlife Act	126			Remanded in custody				0	
961/16	Anon	Phiri Gundu	First time offender	National	26/12/2016	Lilongwe	CRM	S.86 of NP and Wildlife Act	126			Remanded in custody				0	
961/16	Samuel	Chiweta	First time offender	National	26/12/2016	Lilongwe	CRM	S.86 of NP and Wildlife Act	126			Remanded in custody				0	
961/16	Musa	Malolo	First time offender	National	26/12/2016	Lilongwe	CRM	S.86 of NP and Wildlife Act	126			Remanded in custody				0	
961/16	Winston	Humba	First time offender	National	26/12/2016	Lilongwe	CRM	S.86 of NP and Wildlife Act	126			Remanded in custody				0	
961/16	Golden	Bakili	First time offender	National	26/12/2016	Lilongwe	CRM	S.86 of NP and Wildlife Act	126			Remanded in custody				0	
962/16	Mike	Ma coambeta	First time offender	National	26/12/2016	Lilongwe	CRM	S.86 of NP and Wildlife Act	14.5	MPS	Guilty	Remanded in custody	10/02/2017	Guilty	IHL	36	
962/16	Rector	Banda	First time offender	National	26/12/2016	Lilongwe	CRM	S.86 of NP and Wildlife Act	14.5	MPS		Remanded in custody	10/02/2017	Guilty	IHL	36	
962/16	Nkhimye	Toneste	First time offender	Foreigner	26/12/2016	Lilongwe	CRM	S.86 of NP and Wildlife Act, S.91 of NP and Wildlife Act	14.5			Remanded in custody	08/06/2017	Guilty	IHL	40	
975/16	Nan	Zhuang	First time offender	Foreigner	29/12/2016	Kasungu	CRM	S.86 of NP and Wildlife Act		MPS		Remanded on bail	29/12/2016	Guilty	Fine	24	400,000.00
23/17	Champion	Mbwe	First time offender	National	11/01/2017	Kasungu	FGM	S.86 of NP and Wildlife Act			Guilty	Remanded on bail	12/01/2017	Guilty	Fine	24	65,000.00
23/17	Lefat	Mphonde	First time offender	National	11/01/2017	Kasungu	FGM	S.86 of NP and Wildlife Act			Guilty	Remanded on bail	12/01/2017	Guilty	Fine	24	65,000.00
23/17	Standford	January	First time offender	National	11/01/2017	Kasungu	FGM	S.86 of NP and Wildlife Act				Remanded on bail	12/01/2017	Guilty	Fine	24	65,000.00
195/17	Adam	Wadi	First time offender	National	06/02/2017	Lilongwe	SRM	S.86 of NP and Wildlife Act	19.7	MPS	Not Guilty	Remanded in custody	10/02/2017	Guilty	IHL	36	
195/17	Abraham	Kaonga	First time offender	National	06/02/2017	Lilongwe	SRM	S.86 of NP and Wildlife Act	19.7	MPS	Not Guilty	Remanded in custody	10/02/2017	Guilty	IHL	36	
26	Vincent	Maganga	First time offender	National	11/02/2017	Lilongwe	CRM	S.86 of NP and Wildlife Act	39.9			No remand status				0	
26	McPherson	Kanthuruzi	First time offender	National	11/02/2017	Lilongwe	CRM	S.91 of NP and Wildlife Act, S.98 of NP and Wildlife Act	39.9			No remand status				0	
174/17	Patrick	Sakela	First time offender	National	13/02/2017	Rumphi	FGM	S.86 of NP and Wildlife Act	6			No remand status				0	
9/17	Gerald	Banda	First time offender	National	14/02/2017	Kasungu	SRM	S.86 of NP and Wildlife Act, S.91 of NP and Wildlife Act	23	MPS	Not Guilty	Remanded in custody	24/02/2017	Guilty	IHL	60	
9/17	Bright	Chikonde	First time offender	National	14/02/2017	Kasungu	CRM	S.86 of NP and Wildlife Act, S.91 of NP and Wildlife Act	23	MPS	Not Guilty	Remanded in custody	24/02/2017	Guilty	IHL	60	
35/17	Adam	Zimba	First time offender	National	16/02/2017	Kasungu	CRM	S.86 of NP and Wildlife Act	39.9	MPS	Not Guilty	Remanded in custody	27/02/2017	Guilty	IHL	48	
35/17	Michael	Nyondo	First time offender	National	16/02/2017	Kasungu	CRM	S.86 of NP and Wildlife Act	39.9	MPS	Not Guilty	Remanded in custody	27/02/2017	Not guilty			
37/17	Obrein	Tchalie	First time offender	National	17/02/2017	Mzuzu	CRM	S.86 of NP and Wildlife Act	16.5	MPS		Remanded in custody	17/02/2017	Guilty	IHL	48	
101/17	Andrew	Tambala	First time offender	National	21/02/2017	Lilongwe	CRM	S.86 of NP and Wildlife Act		MPS	Guilty	Remanded in custody	21/02/2017	Guilty	IHL	6	
91/17	Thauzeni	Sezi	First time offender	National	01/03/2017	Mzuzu	CRM	S.86 of NP and Wildlife Act	1.3	MPS	Guilty	No remand status	07/03/2017	Guilty	IHL	18	
91/17	Juma	Shalbu	First time offender	National	01/03/2017	Mzuzu	CRM	S.86 of NP and Wildlife Act	1.3	MPS	Guilty	No remand status	07/03/2017	Guilty	IHL	18	
729/17	Meya	Magombo	First time offender	National	08/03/2017	Lilongwe	CRM	S.91 of NP and Wildlife Act, S.98 of NP and Wildlife Act	330		Not Guilty	Remanded on bail				0	
729/17	McWellington	Kapenika	First time offender	National	08/03/2017	Lilongwe	CRM	S.91 of NP and Wildlife Act, S.98 of NP and Wildlife Act	330		Not Guilty	Remanded on bail				0	
729/17	Madi	Conteh	First time offender	Foreigner	08/03/2017	Lilongwe	CRM	S.91 of NP and Wildlife Act, S.98 of NP and Wildlife Act	330		Not Guilty	Remanded on bail				0	
729/17	Mervis	Ma nyozo	First time offender	National	08/03/2017	Lilongwe	CRM	S.91 of NP and Wildlife Act, S.98 of NP and Wildlife Act	330		Not Guilty	Remanded on bail				0	
729/17	Emily	Masiye	First time offender	National	08/03/2017	Lilongwe	CRM	S.91 of NP and Wildlife Act, S.98 of NP and Wildlife Act	330		Not Guilty	Remanded on bail				0	
729/17	Vivian	Ms okera	First time offender	National	08/03/2017	Lilongwe	CRM	S.91 of NP and Wildlife Act, S.98 of NP and Wildlife Act	330		Not Guilty	Remanded on bail				0	
114/17	Blessings	Nyondo	First time offender	National	19/03/2017	Mzuzu	CRM	S.86 of NP and Wildlife Act	330		Not Guilty	Remanded on bail				0	
196/17	Vuka	Mkoloma Mteke	First time offender	National	01/04/2017	Mzuzu	CRM	S.32 of NP and Wildlife Act, S.33 of NP and Wildlife Act, Other	1.17	MPS	Guilty	No remand status	19/03/2017	Guilty	IHL	18	
213/17	William	Banda	First time offender	National	03/04/2017	Mzuzu	CRM	S.86 of NP and Wildlife Act	15.4	MPS		No remand status	01/04/2017	Guilty	IHL	72	
213/17	Gift	Zimba	First time offender	National	03/04/2017	Mzuzu	CRM	S.86 of NP and Wildlife Act	15.4	MPS	Guilty	Remanded in custody	15/04/2017	Guilty	IHL	42	
136/17	Joe	Foster	First time offender	National	06/04/2017	Mchinji	SRM	S.86 of NP and Wildlife Act, S.91 of NP and Wildlife Act	27.5		Not Guilty	Remanded in custody	24/05/2017	Guilty	IHL	60	
136/17	Selemani	Katuli	First time offender	National	06/04/2017	Mchinji	SRM	S.86 of NP and Wildlife Act, S.91 of NP and Wildlife Act	27.5			Remanded in custody	24/05/2017	Guilty	IHL	60	
21	Sanjay	Va chan	First time offender	National	13/04/2017	Blantyre	CRM	S.86 of NP and Wildlife Act	14.8			Remanded on bail				0	
143/17	Mphatso	Moses	First time offender	National	16/04/2017	Mchinji	SRM	S.86 of NP and Wildlife Act, S.91 of NP and Wildlife Act			Guilty	Remanded in custody	24/05/2017	Guilty	IHL	18	
340/17	Wilson	Mbwe	First time offender	National	26/04/2017	Lilongwe	SRM	S.86 of NP and Wildlife Act, S.91 of NP and Wildlife Act	5.4			No remand status	12/05/2017	Guilty	IHL	24	
340/17	Sanson	Banda	First time offender	National	26/04/2017	Lilongwe	SRM	S.86 of NP and Wildlife Act, S.91 of NP and Wildlife Act	5.4			No remand status	12/05/2017	Guilty	IHL	24	
234/17	Nelson	Goma	First time offender	Foreigner	10/05/2017	Mchinji	SRM	S.86 of NP and Wildlife Act, S.91 of NP and Wildlife Act	27			Remanded on bail	30/06/2017	Guilty	IHL	48	
360/17	Kim	Hyun Ku	First time offender		10/05/2017	Lilongwe	SRM	S.86 of NP and Wildlife Act, S.91 of NP and Wildlife Act, S.98 of NP and Wildlife Act	1.5	MPS	Guilty	Remanded on bail	10/05/2017	Guilty	SSO and Fine	24	2,250,000.00
887/17	Lee	Sang Yong	First time offender		10/05/2017	Lilongwe	SRM	S.86 of NP and Wildlife Act, S.91 of NP and Wildlife Act, S.98 of NP and Wildlife Act	1.5	MPS	Guilty	Remanded on bail	10/05/2017	Guilty	Fine	24	2,250,000.00
24	Petro	Chisale	First time offender	National	22/05/2017	Lilongwe	SRM	S.86 of NP and Wildlife Act				Remanded in custody				0	
138/17	Emmanuel	Chisale	First time offender	National	24/06/2017	Rumphi	SRM	S.32 of NP and Wildlife Act, S.33 of NP and Wildlife Act, S.47 of NP and Wildlife Act	5.92		Guilty	No remand status	21/07/2017	Guilty	IHL	38	