

## EXOTIC ADDICTION

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### INTRODUCTION

*In late 2003, the NYPD responded to an unusual call at a Harlem public housing project.<sup>1</sup> One of the building's tenants, Antoine Yates, had been admitted to the hospital with deep gashes in his thigh and arm. He claimed he had been attacked by a pit bull, but his neighbors had a different story to tell. While Yates was in the hospital, police received an anonymous tip that he had been keeping an unusual pet in his apartment: a 500-lb Bengal tiger named Ming. The hungry animal had become increasingly agitated in his owner's absence and was crashing through the apartment, scratching the walls and destroying the furniture. With no one to clean the apartment, gallons of tiger urine began pooling on the floor, dripping into the apartment below.*

*In an attempt to escape the violence of the projects, Yates had purchased the cub online, hoping to someday move upstate and start a zoo. Ming had lived with Yates in his 500-square-foot 19th-floor apartment since the tiger was eight weeks old. The zoo fell through, and Yates began spending all of his time with his growing pet, with whom he believed he had a spiritual bond. After two years with the tiger, Yates rescued a stray housecat. The presence of a new animal in the*

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1. Yates's story was featured in several news articles, *see, e.g., Tiger, gator removed from Harlem apartment*, CNN (Oct. 6, 2003, 10:19 AM), <http://www.cnn.com/2003/US/Northeast/10/04/nyc.tiger> [<http://perma.cc/BP29-H8XJ>], as well as in an episode of "Fatal Attractions," *A Tiger in Harlem*, ANIMAL PLANET, <http://www.animalplanet.com/tv-shows/fatal-attractions/videos/a-tiger-in-harlem/> [<http://perma.cc/7BYT-9WX4>] (last visited Aug. 7, 2015), an Animal Planet television series devoted to the stories of wild pets that ultimately attacked their owners. For more information, visit <http://www.animalplanet.com/tv-shows/fatal-attractions>.

apartment caused Ming to turn on his keeper, biting him severely in the leg and arm. Yates managed to crawl out of the apartment and was taken to a nearby hospital.

*In a dramatic end to what would become an infamous “only in New York” story, residents and news crews gathered on the street to watch as officers rappelled down the side of the building and shot a tranquilizer dart through the window to sedate the tiger. Several minutes later, a crew transported Ming out of the building and into a waiting ambulance.*

*Ming has been relocated to a tiger sanctuary in Ohio, and Yates served six months in jail for reckless endangerment. “Ironically, we were both placed in cages for the first time,” Yates later commented. Even after the attack and his subsequent imprisonment, Yates dreams of reclaiming his pet. “My relationship with Ming was very, very unique,” he told reporters. “We had a bond that was unbelievable.”*

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Although dramatic and highly publicized, Yates’s story is not unique. Demand for exotic animals has increased significantly in recent years, despite the inherent risks of owning or transporting a wild animal. Though some animals, like Ming, are bred in captivity, the majority are snatched from the wild and smuggled across international borders to their final destination.

With an annual profit between \$10 and \$20 billion, animal smuggling has become the third-largest illegal trade in the world, behind only drugs and firearms.<sup>2</sup> The smugglers are “well-armed, well-equipped and well-organized networks of criminals and corrupt officials [who] exploit porous borders and weak institutions to profit” from this illegal enterprise.<sup>3</sup> The U.S. Fish & Wildlife Service (FWS)—the agency responsible for wildlife trade law enforcement<sup>4</sup>—reports that the trade doubled between 1990 and 2006,<sup>5</sup> and data gathered by the Convention on International Trade in Endangered

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2. Charles Bergman, *Wildlife Trafficking*, SMITHSONIAN MAG. (Dec. 2009), <http://www.smithsonianmag.com/people-places/wildlife-trafficking-149079896/?all&no-ist> [<http://perma.cc/G8PW-VPYD>].

3. THE WHITE HOUSE, NATIONAL STRATEGY FOR COMBATING WILDLIFE TRAFFICKING 1 (2014), <https://www.whitehouse.gov/sites/default/files/docs/nationalstrategywildlifetrafficking.pdf> [<http://perma.cc/EFA5-QGNG>].

4. LIANA SUN WYLER & PERVAZE A. SHEIKH, INTERNATIONAL ILLEGAL TRADE IN WILDLIFE 5 (2008).

5. THE WHITE HOUSE, *supra* note 3.

Species of Wild Fauna and Flora (CITES) shows that it has doubled again since 2007.<sup>6</sup> According to the director of TRAFFIC North America, an arm of the World Wildlife Fund, “[animal smuggling is] big. It’s massive. It’s growing. It’s lucrative. It’s high profit and low risk.”<sup>7</sup>

The results are devastating to humans and animals alike. Zoonotic diseases<sup>8</sup> are spreading,<sup>9</sup> animal attack incidents are increasing,<sup>10</sup> and several species are rapidly approaching extinction.<sup>11</sup> These statistics are alarming, and raise questions that have been largely unanswered: What is causing the increase in demand? How serious are the effects? Why isn’t the law effective in preventing this? What can be done to slow this trend?

This Comment attempts to answer these questions by investigating the causes and effects of this multi-billion dollar industry, and the legal loopholes that allow this industry to flourish. Part I exposes the horrific consequences of the trade, both on animals and on humans. Part II examines the causes of the recent increase in demand for exotic pets and animal parts. Part III examines the current state of the law with a focus on the legal and systemic deficiencies that allow this trade to continue. Finally, in Part IV, the Comment concludes by suggesting ways that the law could be improved in spite of these challenges.

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6. UNITED NATIONS ENVTL. PROGRAMME, ELEPHANTS IN THE DUST – THE AFRICAN ELEPHANT CRISIS 6 (2013), [http://www.cites.org/sites/default/files/common/resources/pub/Elephants\\_in\\_the\\_dust.pdf](http://www.cites.org/sites/default/files/common/resources/pub/Elephants_in_the_dust.pdf) [<http://perma.cc/9U93-DWWW>].

7. Brian Shactman, *Investing in Animals: Illegal Trade Takes Off*, CNBC (May 16, 2012, 3:21 PM), <http://www.cnbc.com/id/47437618> [<http://perma.cc/Q3WC-GU3L>].

8. A zoonotic disease is a disease that can be passed between animals and humans. *Zoonotic Diseases*, CTRS. FOR DISEASE CONTROL & PREVENTION, <http://www.cdc.gov/onehealth/zoonotic-diseases.html> [<http://perma.cc/87CP-SZ8G>] (last updated Oct. 18, 2013).

9. See Kristine M. Smith et al., *Zoonotic Viruses Associated with Illegally Imported Wildlife Products*, 7 PLoS One 1, 1 (2012) (noting that “nearly 75 percent of emerging infectious diseases in humans are of zoonotic origin, the majority of which originate in wildlife”).

10. Born Free USA, a nonprofit organization, maintains an online database of animal attack incidents on its website, [http://bornfreeusa.org/database/exo\\_incidents.php](http://bornfreeusa.org/database/exo_incidents.php). A map tracking each incident demonstrates how widespread the problem is in the United States. *Exotic Pets Incident Map*, BORN FREE USA, [http://bornfreeusa.org/database/exo\\_incident\\_map.php](http://bornfreeusa.org/database/exo_incident_map.php) [<http://perma.cc/H7N9-28Z9>] (last visited May 20, 2015).

11. See TANYA WYATT, WILDLIFE TRAFFICKING: A DECONSTRUCTION OF THE CRIME, THE VICTIMS AND THE OFFENDERS 167 (2013) (“The clearest effect is the extinction of species, which is within the realm of possibility for non-human animals such as the black rhinoceros and tiger, which are being consumed out of existence.”).

## I. DEATH, DESTRUCTION AND DISEASE: THE CONSEQUENCES

Investigative journalist Bryan Christy spent a year exploring the illegal animal trade, working undercover in a reptile smuggling ring and interviewing some of the most notorious animal smugglers. “In every respect, [the animal trade] is organized crime,” he said.<sup>12</sup> “It’s just that the commodity makes people smile.”<sup>13</sup> It shouldn’t. The illegal animal trade is just as violent as other organized crime, and has devastating repercussions. For animals, these effects include habitat destruction, deforestation, and extinction. For humans, the effects include animal attacks, infestations, and—most alarmingly—the spread of zoonotic diseases like Ebola.

This section explores the harm that the exotic wildlife trade inflicts on animals and on individuals involved in the trade, as well as the collateral damage to the environment, local economies, and society as a whole.

### A. *Harm to Animals*

Not surprisingly, animals that are captured and traded suffer immensely during the process of being snared, packaged, and transported around the world. The trade also affects the animal population as a whole, destroying habitats and threatening extinction. “Illegal wildlife trade is typically unsustainable, harming wild populations of animals and plants and pushing endangered species toward extinction.”<sup>14</sup> In the Amazon, for example, poachers cut down entire trees to capture baby parrots, leaving rampant deforestation in their wake.<sup>15</sup> Because baby animals are the most profitable pets, “poachers will often kill the protective mother first” so that it is easier

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12. Patrik Jonsson, *How far will Ohio go to regulate exotic pets after menagerie shooting?*, CHRISTIAN SCI. MONITOR (Oct. 22, 2011), <http://www.csmonitor.com/USA/2011/1022/How-far-will-Ohio-go-to-regulate-exotic-pets-after-menagerie-shooting> [<http://perma.cc/PY6L-3CF7>].

13. *Id.*

14. *The Escalating International Wildlife Trafficking Crisis: Ecological, Economic and National Security Issues: Joint Hearing Before the Subcomm. on African Affairs and Subcomm. on East Asian and Pacific Affairs of the S. Comm. on Foreign Relations*, 113 Cong. 10–17 (2014) (statement of Dan Ashe, Dir. of U.S. Fish and Wildlife Serv.).

15. Bergman, *supra* note 2.

to capture the young.<sup>16</sup> On average, nine adult apes are killed for every one baby captured.<sup>17</sup>

Once captured, the animals are packaged unnaturally for transport—birds with their beaks taped shut are stuffed in plastic tubes, snakes are tied into tube socks, and baby monkeys are concealed in special underwear.<sup>18</sup> Incredibly, many are shipped by mail, and forced to survive without food or water for days.<sup>19</sup> The majority die before completing the trip.<sup>20</sup> In a 2009 raid, for example, authorities found twenty-seven thousand animals in a Texas warehouse, including hundreds of dead animals and several more who were extremely ill.<sup>21</sup> Among these were three hundred dying iguanas that had been without food or water for two weeks after a buyer canceled his order.<sup>22</sup>

For those that survive the transport, an even more unpleasant fate awaits. In Asia, these animals “end up on the banquet table or in medicine shops”; in the United States, they find themselves “in the

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16. *Fatal Attractions: Facts about the Exotic Pet Trade*, ANIMAL PLANET, <http://www.animalplanet.com/tv-shows/fatal-attractions/lists/facts-exotic-pet-trade> [<http://perma.cc/T7UU-SYJ8>] (last visited May 31, 2015).

17. Press Release, Richard Nyberg, USAID, Conservationists Applaud Global Wildlife Protection Operation (Feb. 11, 2014), <http://www.usaid.gov/asia-regional/press-releases/feb-11-2014-conservationists-applaud-global-wildlife-protection> [<https://perma.cc/4RNZ-988K?type=live>].

18. *Inside the Exotic Animal Trade*, PETA, <http://www.peta.org/issues/companion-animal-issues/companion-animals-factsheets/inside-exotic-animal-trade> [<http://perma.cc/EZ4B-XY66>] (last visited May 31, 2015); see also Lola Akinmade Åkerström, *10 Strange Smuggling Stories*, SLATE (Sept. 11, 2011, 6:45 AM), [http://www.slate.com/articles/life/travel\\_leisure/2011/09/psst\\_know\\_where\\_i\\_can\\_get\\_me\\_some\\_parrot\\_eggs.html](http://www.slate.com/articles/life/travel_leisure/2011/09/psst_know_where_i_can_get_me_some_parrot_eggs.html) [<http://perma.cc/VUS4-J7YV>] (describing a man who smuggled eighteen tiny primates by strapping them to his waist); Daniel Hajek, *Lucrative Illegal Animal Trade Thrives In Southern California*, NAT'L PUB. RADIO (Apr. 05, 2014, 5:11 PM), <http://www.npr.org/2014/04/05/299385928/lucrative-illegal-animal-trade-thrives-in-southern-california> [<http://perma.cc/J7YX-6EGK>] (explaining how a man hid songbirds in his socks); Sasha Ingber, *6 Bizarre Animal Smuggling Busts*, NAT'L GEOGRAPHIC NEWS (Feb. 1, 2013), <http://news.nationalgeographic.com/news/2013/130130-otters-smuggle-wildlife-borders-animals-science> [<http://perma.cc/S4P7-NQFM>] (recounting an incident in which a man hid pygmy lorises in his underwear, and another in which a man wrapped birds in cloth and taped them to his pants).

19. PETA, *supra* note 18.

20. According to a German customs agent quoted in an episode of the BBC One series *Panorama*, there is an 80 to 90 percent mortality rate for smuggled animals. *Panorama: Animal Underworld* (BBC One television broadcast Feb. 25, 2001).

21. PETA, *supra* note 18.

22. *Id.*

living room of exotic-animal fanciers.”<sup>23</sup> The animals that become pets are confined to cages or other unnatural enclosures for the rest of their lives, often with caretakers who are unprepared or unable to properly care for them.<sup>24</sup> Some die from the stress, others are set loose in unfamiliar areas and die of starvation or exposure.<sup>25</sup>

### B. *Harm to Humans*

The increase in contact between humans and wild animals has two tragic consequences: a spike in animal attacks resulting from the increase in exotic pets, and epidemics of zoonotic diseases among humans resulting from the exposure to exotic animals’ bodily fluids.

The animal advocacy group Born Free USA, which maintains a comprehensive database of exotic animal attacks, reports that there were three to five animal attacks per month in 2014.<sup>26</sup> There have been 2023 attacks since 1990.<sup>27</sup> Notably, these are just the *reported* attacks. Many incidents go unreported as owners—like Antoine Yates—try to hide the truth in order to keep their pets.

In addition to the increase in animal attacks, three quarters of emerging infectious diseases originate from wildlife, “among them SARS, H.I.V., the Nipah virus and H5N1 influenza.”<sup>28</sup> These diseases begin in the forest and spread to humans as smuggled animals or their parts traverse the globe.<sup>29</sup>

The list of diseases people can contract from exotic animals is lengthy,<sup>30</sup> and twenty or thirty new diseases have emerged just in the

23. Bryan Christy, *The Kingpin*, NAT’L GEOGRAPHIC (Jan. 2010), <http://ngm.nationalgeographic.com/2010/01/asian-wildlife/christy-text> [<http://perma.cc/U6SV-7JYL>].

24. PETA, *supra* note 18.

25. THE CAPTIVE ANIMALS’ PROTECTION SOCIETY, EXOTIC ANIMALS ARE *NOT* PETS 2–3 (2011), <http://www.captiveanimals.org/wp-content/uploads/2011/02/Exotic-pet-factsheet.pdf> [<http://perma.cc/4WW5-83JU>].

26. BORN FREE USA, *supra* note 10.

27. *Id.*

28. Rachel Nuwer, *From the Jungle to J.F.K., Viruses Cross Borders in Monkey Meat*, N.Y. TIMES: GREEN (Jan. 13, 2012, 8:10 AM), [http://green.blogs.nytimes.com/2012/01/13/from-the-jungle-to-j-f-k-viruses-cross-borders-in-monkey-meat/?\\_r=0](http://green.blogs.nytimes.com/2012/01/13/from-the-jungle-to-j-f-k-viruses-cross-borders-in-monkey-meat/?_r=0) [<http://perma.cc/CP4L-4CLC>].

29. Bruno B. Chomel, Albino Belotto, & François-Xavier Meslin, *Wildlife, Exotic Pets, and Emerging Zoonoses*, 13 EMERGING INFECTIOUS DISEASES 6, 6, 8 (2007).

30. The American Society for the Prevention of Cruelty to Animals (ASPCA) lists the following as easily transmitted diseases between animals and humans: chlamydia, giardia, hepatitis A, rabies, ringworm, tuberculosis, measles, monkey pox, Marburg virus, molloscum contagiosum, dermatophytosis, candidiasis, streptothricosis, yaba virus, campylobacteriosis, klebsiella and amebiasis, as well as infections from various nematodes, cestodes and arthropods.

last twenty-five years.<sup>31</sup> The HIV/AIDS outbreak, for example, was traced to bushmeat.<sup>32</sup> In 2002, an outbreak of Sudden Acute Respiratory Syndrome (SARS), transmitted to humans from a cat called the masked palm civet, caused 8098 infections and 774 deaths around the world.<sup>33</sup> In 2003, a Monkeypox outbreak spread through the Midwestern United States.<sup>34</sup> That infection was traced to Gambian rats, housed in Illinois by an animal dealer.<sup>35</sup>

Primates are particularly dangerous to humans because similarities in DNA structure provide a medium for diseases to spread quickly and easily between the two species. According to the Centers for Disease Control and Prevention (CDC), humans have contracted several diseases from primates in recent years, including Ebola, Herpes B, Monkeypox, yellow fever, simian immunodeficiency virus, and tuberculosis, among others.<sup>36</sup>

The Journal of Internal Medicine estimates that zoonotic diseases have infected fifty million people worldwide in the last ten years, and that as many as seventy-eight thousand of those infections have been fatal.<sup>37</sup> “This is on its way to becoming a pandemic,” Dr. Brian Hare, an evolutionary anthropologist at Duke University, explained, noting that the results could be far more serious than any

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*Exotic Animals as Pets*, ASPCA, <http://www.aspc.org/adopt/adoption-tips/exotic-animals-pets> [<http://perma.cc/U7VR-3JBX>] (last visited May 20, 2015).

31. Richard Knox, *Smuggled Bushmeat Poses U.S. Health Threat*, NAT'L PUB. RADIO (Mar. 12, 2007, 6:00 AM), <http://www.npr.org/templates/story/story.php?storyId=7849312> [<http://perma.cc/L8YU-5BF5>].

32. *Id.* The term “bushmeat” refers to meat from wildlife native to the African forest, “including: elephant; gorilla; chimpanzee and other primates; forest antelope (duikers); crocodile; porcupine; bush pig; cane rat; pangolin; monitor lizard; guinea fowl; etc.” *What is The Bushmeat Crisis?*, BUSHMEAT CRISIS TASK FORCE, [http://www.bushmeat.org/bushmeat\\_and\\_wildlife\\_trade/what\\_is\\_the\\_bushmeat\\_crisis](http://www.bushmeat.org/bushmeat_and_wildlife_trade/what_is_the_bushmeat_crisis) [<http://perma.cc/27WZ-WV25>] (last visited May 24, 2015).

33. Smith et al., *supra* note 9, at 1.

34. Jodi Wilgoren, *Monkeypox Casts Light on Rule Gap for Exotic Pets*, N.Y. TIMES (June 10, 2003), <http://www.nytimes.com/2003/06/10/us/monkeypox-casts-light-on-rule-gap-for-exotic-pets.html> [<http://perma.cc/AX4U-C8GZ>]. There were seventy-two reported cases in the three-state outbreak. IOWA STATE UNIV., MONKEYPOX 4 (2013), <http://www.cfsph.iastate.edu/Factsheets/pdfs/monkeypox.pdf> [<http://perma.cc/FN3W-RQFS>].

35. Wilgoren, *supra* note 34.

36. *Bringing a Monkey into the United States*, CTRS. FOR DISEASE CONTROL & PREVENTION, <http://www.cdc.gov/animalimportation/monkeys.html> [<http://perma.cc/X3VJ-75SP>] (last updated Feb. 10, 2010).

37. Sean Alfano, *Imported Animals Pose Major Health Threat*, CBS NEWS (Nov. 28, 2006, 11:05 AM), <http://www.cbsnews.com/news/imported-animals-pose-major-health-threat> [<http://perma.cc/79VG-BJ47>].

terrorist attack.<sup>38</sup> With statistics like these, it is clear that the law is failing.

## II. PETS AND PARTS: THE DEMAND SPIKE

*“There’s nothing cool or outstanding about owning a dog. A Kinkajou—now that seems untouchable. And who doesn’t want the untouchable? They say don’t touch it, so you want to touch it.”*

— Former Kinkajou owner Michelle Burk<sup>39</sup>

The United States and China are the leading importers of exotic animals and their derivative products.<sup>40</sup> According to the FWS, more than one billion live animals were imported into the United States between 2000 and 2004.<sup>41</sup> Nearly 90 percent were sold as pets, with the remaining animals destined for research facilities, game ranches, and zoos.<sup>42</sup> Among these were more than three hundred types of invasive species, including venomous snakes, rodents, and exotic birds.<sup>43</sup> More shockingly, nearly twenty-five million pounds of animal parts, including bushmeat, are illegally imported into the United States each year.<sup>44</sup>

To feed this demand, poaching has skyrocketed. In South Africa, for example, the number of illegally killed rhinoceroses went from 13 in 2007 to 1400 in 2013—a 7700 percent increase.<sup>45</sup> From 2009 to 2012, more than 130 young chimpanzees and 10 gorillas were illegally exported from the tiny West African country of Guinea-Conakry to

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38. Conversation with Dr. Brian Hare, Apr. 11, 2014 (on file with *Duke Law Journal Online*).

39. Lauren Slater, *Wild Obsession: The Perilous Attraction of Owning Exotic Pets*, NAT’L GEOGRAPHIC, Apr. 2014, at 107.

40. LIANA SUN WYLER & PERVAZE A. SHEIKH, *supra* note 4, at 5.

41. Kristine M. Smith, *Wildlife Trade, Demand & Health*, in ANIMALS DISEASES AND HUMAN HEALTH 99, 104 (Radford Davis ed., 2011).

42. DEFS. OF WILDLIFE, BROKEN SCREENS: THE REGULATION OF WILD ANIMAL IMPORTS INTO THE UNITED STATES 8, [http://www.defenders.org/publications/broken\\_screens\\_report.pdf](http://www.defenders.org/publications/broken_screens_report.pdf) [http://perma.cc/27YQ-SYBR]; *see also* Smith, *supra* note 41, at 104 (“The United States is one of the largest consumers of the exotic pet trade, with more than 90 percent of its live animal imports destined for commercial purposes.”).

43. DEFS. OF WILDLIFE, *supra* note 42, at 8.

44. Smith et al., *supra* note 9, at 1.

45. *Illegal Wildlife Trade*, WORLD WILDLIFE FUND, <https://www.worldwildlife.org/threats/illegal-wildlife-trade> [http://perma.cc/W5W6-QXQK] (last visited May 24, 2015).

China alone.<sup>46</sup> As a result, a shocking 48 percent of ape species are nearing extinction in their native countries.<sup>47</sup>

In the United States and other developed countries, private ownership of exotic animals has become increasingly popular, especially with celebrities, who “prefer their pets like their bank accounts: extravagant and expensive.”<sup>48</sup> Justin Bieber regularly travels with Mally, his pet capuchin monkey; Paris Hilton had a pet kinkajou named Baby Luv that rode around on her shoulder as she partied (until it bit her); Mike Tyson owned three tigers<sup>49</sup>; Steven Tyler has a raccoon; Kristen Stewart has a wolf hybrid; and the late Michael Jackson had a pet chimpanzee named Bubbles, who was transported to a primate sanctuary following the singer’s 2009 death.<sup>50</sup> The trend has spread from Hollywood to homes and backyards around the country, and with devastating consequences.<sup>51</sup> “Demand for such wildlife is booming as parents try to get their kids the latest pets fancied by Hollywood stars.”<sup>52</sup> As one CDC employee noted, “a wild animal will be in the bush, and in less than a week it’s in a little girl’s bedroom.”<sup>53</sup>

In addition to emulating celebrities, people pursue exotic pet ownership for a variety of reasons. For many, exotic pets are a symbol

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46. KARL AMMANN, KLAUS SPARWASSER, NICK COCKAYNE, CLAUDIA SCHOENE & PAX ANIMALIS, *THE CONAKRY CONNECTION*, at v (2013), [http://www.pax-animalis.org/assets/files/dokumente/conakry\\_connection.pdf](http://www.pax-animalis.org/assets/files/dokumente/conakry_connection.pdf) [<http://perma.cc/8C48-UEQQ>].

47. *The Case for Primate Protection*, INT’L PRIMATE PROT. LEAGUE, <http://www.ippl.org/gibbon/about-us/the-case-for-primate-protection/> [<http://perma.cc/J9WC-J2AM>] (last visited May 24, 2015).

48. *Celebrities and Their Exotic Pets*, FOX NEWS MAG. (Apr. 1, 2013), <http://magazine.foxnews.com/celebrity/celebrities-and-their-exotic-pets> [<http://perma.cc/L247-C9CL>].

49. Tyson sold the tigers, which cost him approximately \$4,000 per month, when he declared bankruptcy in 2003. One tiger lived in a cage in the back of a tattoo parlor for several years before being rescued by a sanctuary. The other two tigers’ whereabouts are unknown. *Top 10 Weird Exotic Pet Stories Fatal Attractions*, ANIMAL PLANET, <http://www.animalplanet.com/tv-shows/fatal-attractions/lists/5-heavyweight-champ-loves-big-cats> [<http://perma.cc/F5YY-TD6E>] (last visited May 24, 2015).

50. *Celebrities and Their Exotic Pets*, *supra* note 48.

51. For example, there are approximately 2000 privately owned chimpanzees in the United States. *About Chimpcare*, CHIMPCARE, [http://chimpcare.org/about\\_chimpcare](http://chimpcare.org/about_chimpcare) [<http://perma.cc/6X6T-GUS7>] (last visited May 26, 2015). Similarly, there are approximately 7000 privately owned tigers in the United States—a number that stands in stark contrast to the 3200 tigers that remain in the wild. *Rescue*, CAROLINA TIGER RESCUE, <http://www.carolinatigerrescue.org/animals/rescue.asp> [<http://perma.cc/H7TJ-BSFY>] (last visited May 31, 2015).

52. Alfano, *supra* note 37.

53. *Id.*

of power and status. In a 2012 interview, Tyson explained what attracted him to exotic pet ownership:

This guy on the phone says, ‘[y]ou can be driving your Ferrari with your [tiger] cub in the front seat.’ I thought, ‘[y]eah, when I come out, I’m gonna be a cool dude. I’m gonna have a tiger in my car. I’m gonna be a baller.’<sup>54</sup>

For others, particularly those who own primates, the animals function as surrogate children. The owners dress them in diapers and baby clothes and feed them with bottles.<sup>55</sup> In a particularly well-known case, a chimpanzee named Travis became famous after mauling his owner’s best friend.<sup>56</sup> Travis grew up drinking formula from bottles, wearing diapers and sleeping in a crib.<sup>57</sup> As he got older, he learned how to play catch with his dad and mow the lawn.<sup>58</sup> In spite of his human qualities, Travis’s animal instincts eventually caused his demise: police officers shot him to death after he attacked his mother’s friend, ripping off her face.<sup>59</sup> The friend nearly died from the attack, which was so severe that she became the first person in the United States to receive a face transplant.<sup>60</sup> His human mother was shocked that “her son” attacked someone.<sup>61</sup>

Sadly, becoming a pet is one of the better fates for smuggled exotic animals. With many animals worth more in pieces than alive, the parts trade is thriving around the world.<sup>62</sup> For example, “[t]he biggest threat to wild tigers is poaching for their parts, with people selling off skins, bones and whiskers for use in traditional Asian

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54. John Saraceno, *Mike Tyson talks tigers, regrets and Muhammad Ali*, USA TODAY (Mar. 20, 2012, 7:18 AM), <http://usatoday30.usatoday.com/sports/boxing/story/2012-03-20/mike-tyson-talks-tigers-regrets-and-muhammad-ali/53678524/1> [<http://perma.cc/R9Y9Q-WQ3R>].

55. Slater, *supra* note 39.

56. Linda Carroll, *Chimp Attack Victim Speaks about New Face, New Hopes*, TODAY NEWS (Nov. 21, 2011, 7:35 AM), [http://www.today.com/id/45380267/ns/today-today\\_health/t/chimp-attack-victim-speaks-about-new-face-new-hopes/#.U2J6pMcRaeY](http://www.today.com/id/45380267/ns/today-today_health/t/chimp-attack-victim-speaks-about-new-face-new-hopes/#.U2J6pMcRaeY) [<http://perma.cc/48ZV-KN4V>].

57. Dan P. Lee, *Travis the Menace*, NEW YORK MAG. (Jan. 23, 2011), <http://nymag.com/news/features/70830> [<http://perma.cc/NQ6F-HG82>].

58. *Id.*

59. *Id.*

60. *Id.*

61. *Id.*

62. See, e.g., Shactman, *supra* note 7 (explaining that the composite parts of a tiger could be worth up to \$75,000, compared to \$2500 for a live tiger, and a scarf from five antelope can be worth \$10,000).

medicine.”<sup>63</sup> While live tiger cubs are sold for as low as \$200, an adult tiger, sold piecemeal, can be worth ten times more.<sup>64</sup> A FWS officer reported seeing “fewer live animals and more animal parts coming through the X-ray” at the Los Angeles airport in recent years.<sup>65</sup> The demand for parts has always existed, but has surged with the increasing popularity of various types of Eastern medicine. An undercover journalist reported seeing “tiger bone in pills and other forms that could be added to drinks” and “[b]oxes of seal penis pills.”<sup>66</sup> Both are believed to provide energy and vigor.<sup>67</sup> Some Asian cultures believe ground rhinoceros horns cure cancer.<sup>68</sup> Others believe it can prevent hangovers.<sup>69</sup>

The bushmeat trade has also increased. Though most Americans pale at the thought of consuming bushmeat, U.S. customs officials uncover attempts to bring bushmeat into the United States every week.<sup>70</sup> Meat from chimpanzees, monkeys, mangabeys, rodents and baboons has been recently seized at airports in New York, D.C., Philadelphia, Atlanta, and Houston.<sup>71</sup> A Smithsonian reporter investigating exotic animal trade in the Amazon described witnessing the gruesome reality of bushmeat:

In the middle of the canoe were boxes of smoked meat. The charred hand of a monkey stuck out of one, fingers clinched. Indigenous people may legally hunt for subsistence purposes, but *carne del monte*, or wild meat, is illegal to sell without approval from the Ministry of the Environment. Still, the meat is popular . . . [and] [s]elling [it] is just about the only way [the people] had of making a few dollars.<sup>72</sup>

Although some of the meat is transported by U.S. citizens who are unaware that what they are doing is illegal,<sup>73</sup> the majority is

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63. Chelsea Whyte, *Exotic pets USA: Tigers, big bucks and organized crime*, NEW SCIENTIST (Oct. 21, 2011), <http://www.newscientist.com/article/dn21078-exotic-pets-usa-tigers-big-bucks-and-organised-crime.html> [<http://perma.cc/6R6T-G39D>].

64. *Id.*

65. Daniel Hajek, *supra* note 18.

66. Shactman, *supra* note 7.

67. *Id.*

68. *Id.*

69. Karl Ammann, *Into the Asian Underworld*, AFRICA GEOGRAPHIC, Sept. 2012, at 33.

70. Knox, *supra* note 31.

71. Nuwer, *supra* note 28.

72. Bergman, *supra* note 2.

73. Knox, *supra* note 31.

transported by smugglers looking to take advantage of high retail prices and limited law enforcement.<sup>74</sup>

With increased demand for bushmeat, the smuggling market is thriving.<sup>75</sup> Despite being illegal, bushmeat is readily available in the United States. In the Bronx, bushmeat is “a luxury indulgence” that can sell for up to \$15 per pound.<sup>76</sup> In 2009, for example, a Manhattan grocery store was found openly selling bushmeat.<sup>77</sup> The meat, identified as African cane rat, was sitting in the refrigerated section alongside beef and chicken.<sup>78</sup> It was all headed for the dinner table.<sup>79</sup>

### III. THE LAW

Enacted in 1975, CITES is the preeminent treaty regulating the wild animal trade.<sup>80</sup> It was created “to safeguard certain species from over-exploitation.”<sup>81</sup> Ten states originally signed the treaty; there are now 180 signatories.<sup>82</sup>

CITES was created to “ensure that international trade in specimens of wild animals and plants does not threaten their survival.”<sup>83</sup> It requires member states to “take appropriate measures to enforce the provision[s] of the present Convention and to prohibit trade in specimens in violation thereof,” noting that “[t]hese shall include measures: (a) to penalize trade in, or possession of, such specimens, or both; and (b) to provide for the confiscation or return to the State of export of such specimens.”<sup>84</sup> Notably, CITES does not create regulations; it requires each party to adopt and enforce its own

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74. Nuwer, *supra* note 28.

75. Adam Goldman, *NY Cracks Down on Illegal Mystery Meats*, WASH. POST (June 19, 2009, 9:10 PM), [http://www.washingtonpost.com/wp-dyn/content/article/2006/12/01/AR2006120101050\\_pf.html](http://www.washingtonpost.com/wp-dyn/content/article/2006/12/01/AR2006120101050_pf.html) [<http://perma.cc/XHV7-XRZY>].

76. Gerard Flynn & Susan Scutti, *Smuggled Bushmeat is Ebola's Backdoor to America*, NEWSWEEK (Aug. 21, 2014, 10:35 AM), <http://www.newsweek.com/2014/08/29/smuggled-bushmeat-ebolas-back-door-america-265668.html> [<http://perma.cc/GF66-FNE9>].

77. Goldman, *supra* note 75.

78. *Id.*

79. *Id.*

80. *What is CITES?*, CONVENTION ON INT'L TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA (CITES), <http://www.cites.org/eng/disc/what.php> [<http://perma.cc/7SEW-X62F>] (last visited May 15, 2015).

81. *Id.*

82. *Id.*

83. *Id.*

84. Convention on International Trade in Endangered Species of Wild Fauna and Flora art. VIII(1), Mar. 3, 1973, 27 U.S.T. 1087, TIAS No. 8249 [hereinafter CITES Treaty].

domestic legislation.<sup>85</sup> The United States, for example, enacted the Endangered Species Act of 1973 (ESA) in order to meet its obligations under CITES.<sup>86</sup>

Although CITES does not create regulations, it does provide a framework to help create uniformity among the domestic laws of its signatories. The framework groups wildlife into three appendices based on the extent to which they are endangered.<sup>87</sup> Appendix I identifies highly endangered species that cannot be transported between countries for commercial purposes except in rare circumstances.<sup>88</sup> Species such as tigers, rhinoceroses, pandas, Asian elephants, and lemurs, among others, are categorized as Appendix I.<sup>89</sup> Appendix II includes species that are slightly less endangered, but for which “trade must be controlled in order to avoid utilization incompatible with their survival.”<sup>90</sup> According to FWS, the majority of animal and plant species are listed in this appendix, “including American ginseng, paddlefish, lions, American alligators, or

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85. CITES regulates trade simply by requiring that “parties shall not allow trade in specimens of species included in Appendices I, II and III except in accordance with the provisions of the present Convention.” *Id.* art. II(4). To be in accordance with such provisions, trade must “not be detrimental to the survival of that species” and must be in accordance with that state’s domestic laws regulating wildlife trade. *Id.* art. III(2)(a)–(b). The treaty then instructs parties to “take appropriate measures to enforce the provisions of the present Convention and to prohibit trade in specimens in violation thereof” by enacting legislation “to penalize trade in, or possession of, such specimens, or both.” *Id.* art. VIII(1).

86. See Endangered Species Act of 1973, 16 U.S.C. § 1531(a)(4)(F) (2012) (specifically listing CITES as one of the international treaties to which the United States has pledged itself).

87. *How Cites Works*, CITES, <http://www.cites.org/eng/disc/how.php> [<http://perma.cc/EYX3-2KTS>] (last visited May 24, 2015).

88. CITES is very specific on the conditions that meet these “exceptional circumstances.” According to its website:

An import permit . . . may be issued only if the specimen is not to be used for primarily commercial purposes and if the import will be for purposes that are not detrimental to the survival of the species. In the case of a live animal or plant, the Scientific Authority must be satisfied that the proposed recipient is suitably equipped to house and care for it.

An export permit or re-export certificate . . . may be issued only if the specimen was legally obtained; the trade will not be detrimental to the survival of the species; and an import permit has already been issued. . . .

In the case of a live animal or plant, it must be prepared and shipped to minimize any risk of injury, damage to health or cruel treatment.

*Id.*

89. As of 2013, there were 630 species of animals listed in Appendix I. *The CITES Species*, CITES, <https://cites.org/eng/disc/species.php> [<http://perma.cc/5Y8C-UM65>] (last visited Aug. 9, 2015).

90. *What is CITES?*, *supra* note 80; CITES Treaty, *supra* note 84, art. II(2).

mahogany.”<sup>91</sup> Appendix III includes species for which CITES member states have specifically requested protection.<sup>92</sup> Prohibited trade under each appendix includes both live animals and all animal derivatives.<sup>93</sup>

Sadly, CITES has several loopholes that undermine its success. First, its reliance on domestic law and self-enforcement allows some states to cooperate with smugglers. CITES uses a permit system to regulate the transport of species between states.<sup>94</sup> Both the importing and exporting country must issue permits,<sup>95</sup> but there is no oversight by CITES. Article III requires simply that the exporting state determine that “such export will not be detrimental to the survival of the species,” that the animal “was not obtained in contravention of the laws of that state,” and that the animal will not be subjected to cruel or inhumane treatment during transport.<sup>96</sup> Similarly, the receiving country must ensure that the recipient “is suitably equipped” to house and care for the animal, and that the animal will not be used for commercial purposes.<sup>97</sup> Each country is responsible for issuing its own permits and deciding whether a transporter meets such requirements.<sup>98</sup> This is problematic in developing countries, where corruption runs rampant and permits can essentially be purchased.<sup>99</sup>

Second, although CITES prohibits the commercial transport of Appendix I animals, it carves out an exception for captive-bred animals.<sup>100</sup> This exception is intended to allow intentional breeding of

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91. U.S. FISH & WILDLIFE SERV., UNDERSTANDING CITES: CITES APPENDIX II SUPPORTS SUSTAINABLE USE 1 (2014), <http://www.fws.gov/international/pdf/factsheet-cites-appendix-ii-2014.pdf> [<http://perma.cc/Q45A-SLS4>].

92. CITES Treaty, *supra* note 84, art. II(3).

93. WYATT, *supra* note 11, at 9.

94. *See* CITES Treaty, *supra* note 84, art. VI.

95. *Id.* art. III–VI.

96. *Id.* art. III(2).

97. *Id.* art. III(3).

98. *See id.* art. IV; *see also* CITES, RESOLUTION CONF. 8.5: STANDARDIZATION OF CITES PERMITS AND CERTIFICATES (1992), <https://cites.org/eng/res/all/08/E08-05.pdf> [<http://perma.cc/6KPY-5TXN>] (aiming to regulate content and form of all permits and certificates issued by member states).

99. *See* AMMANN ET AL., *supra* note 46, at 19 (“Where importing countries insisted on having proper export documentation the dealers had no problem to buy the corresponding permits from the CITES Management Authority.”); *see also* Christy, *supra* note 23 (“I can get anything here from anywhere,” [Malaysian Kingpin Anson Wong] wrote [to FWS Special Agent] Morrison. “It only depends on how much certain people get paid.”).

100. CITES Treaty, *supra* note 84, art. VII(5).

animals nearing extinction and to alleviate pressure on wild populations, but it is more commonly used as a loophole.<sup>101</sup> The smuggling networks “establish fake breeding facilities, then claim that the animals and plants poached from the wild are captive bred.”<sup>102</sup> They also use zoos to move endangered species with CITES paperwork, and the zoos then use breeding programs to explain the appearance of a new animal.<sup>103</sup> Once an animal is imported for a zoo, CITES no longer tracks its whereabouts: “a [zoo] gorilla can be sold domestically, or if it dies (or is killed), can be cut up for meat, or parts, or even stuffed.”<sup>104</sup>

The smugglers are brazen. Most of the illegal use of captive-bred, or “C Class” permits, is dutifully reported to CITES and included in their official trade statistics. The discrepancy between official statistics and possible legitimate captive breeding is readily apparent. At its latest meeting, CITES reported that between 2000 and 2012, “captive-bred specimens represented 42 percent of commercial trade in live animals.”<sup>105</sup> In the same report, the commission noted that there was a “notable discrepancy” between export and import permits reporting captive-bred specimens—evidence that this rule is frequently being misused.<sup>106</sup> In one instance, investigators found that smugglers in Guinea had moved from shipping stolen animals using fake permits to shipping stolen animals using the captive-bred classification, despite the fact that Guinea did not have any captive breeding facilities.<sup>107</sup> “In reality those animals had been taken from the wild. In some cases, the apes in question did not even originate from Guinea.”<sup>108</sup>

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101. ROBERT W.G. JENKINS, AN OVERVIEW OF THE FUNDAMENTAL PRINCIPLES OF CITES AS A MECHANISM FOR REGULATING TRADE IN LISTED SPECIES 9 (2002), <http://cites.org/sites/default/files/eng/news/meetings/IFS-05/IFS05-principle.pdf> [<http://perma.cc/65VK-7LM2>] (“Indeed, if demand could be satisfied through the supply of captive-bred specimens, it may actually facilitate the recovery and conservation of endangered species by removing harvest pressure to supply the market.”).

102. Christy, *supra* note 23.

103. *Id.*

104. *Id.*

105. UNEP WORLD CONSERVATION MONITORING CTR., CITES SOURCE CODES: REVIEW OF CITES ANNUAL REPORT DATA FOR SPECIMENS RECORDED USING SOURCE CODES C, D, F AND R 48 (2014), <https://cites.org/sites/default/files/eng/com/ac/27/E-AC27-17.pdf> [<http://perma.cc/3AV6-XES2>].

106. *Id.*

107. AMMANN ET AL., *supra* note 46, at v.

108. *Id.*

“The numbers [of smuggled primates, most of whom are infants] are staggering,” especially in light of the number of adult animals that must be killed in order to capture each baby.<sup>109</sup> In 2007, two chimpanzees were exported from Guinea to China.<sup>110</sup> In 2012 that number surpassed 130.<sup>111</sup> According to Dr. Hare, these numbers are well beyond what the current captive population in Guinea-Conakry could produce.<sup>112</sup> “Clearly, this law isn’t working,” he lamented.<sup>113</sup>

Third, CITES is very challenging to enforce. Its voluntary provisions prevent international oversight, and leave enforcement of a large and complicated industry to small, often-underfunded domestic agencies.<sup>114</sup> In the United States, for example, the FWS is responsible for enforcing the ESA.<sup>115</sup> According to their website, “[w]ildlife inspectors of the [FWS] are the nation’s front-line defense against the illegal wildlife trade—a criminal enterprise that threatens species worldwide. These professional import-export control officers ensure that wildlife shipments comply with U.S. and international wildlife protection laws.”<sup>116</sup> Unfortunately, FWS currently employs only 143 inspectors nationwide to perform this important task<sup>117</sup> and many of them are not trained to detect diseases.<sup>118</sup> Not surprisingly,

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109. *Id.* at 1. The United Nations estimates that five to ten adult chimpanzees are killed for every infant captured, and that the numbers are similar for Bonobos, which are also social animals; for gorillas and orangutans, only one to two adults are killed for each infant captured. D. STILES, I. REDMOND, D. CRESS, C. NELLEMAN & R.K. FORMO, *STOLEN APES: THE ILLICIT TRADE IN CHIMPANZEES, GORILLAS, BOBOS AND ORANGUTANS* 36 (2013), <http://danstiles.org/publications/wildlife/30.Ape%20Trade.pdf> [<http://perma.cc/YP2B-JNTK>].

110. AMMAN ET AL., *supra* note 46, at 1.

111. *See* STILES ET AL., *supra* note 109, at 38.

112. Conversation with Dr. Brian Hare, Apr. 11, 2014 (on file with *Duke Law Journal Online*).

113. *Id.*

114. For example, the 2015 Fish and Wildlife Service budget was \$2.8 million. U.S. FISH AND WILDLIFE SERV., *BUDGET JUSTIFICATIONS AND PERFORMANCE INFORMATION, FISCAL YEAR 2015*, at Ex-5, [http://www.fws.gov/budget/2014/FY2015\\_FWS\\_Greenbook-DOI31014.pdf](http://www.fws.gov/budget/2014/FY2015_FWS_Greenbook-DOI31014.pdf) [<http://perma.cc/34ZD-REML>].

115. Michael De Alessi, *Protecting Endangered Species at Home and Abroad: The International Conservation Effects of the Endangered Species Act and Its Relationship to CITES*, in *REBUILDING THE ARK: NEW PERSPECTIVES ON ENDANGERED SPECIES ACT REFORM 201*, 204 (Jonathan H. Adler ed., 2011).

116. *About Service Wildlife Inspectors*, U.S. FISH AND WILDLIFE SERV., <http://www.fws.gov/life/wildlife-inspectors.html> [<http://perma.cc/5BHJ-NGFN>] (last visited May 24, 2015).

117. Shactman, *supra* note 7.

118. Alfano, *supra* note 37.

the agency estimates that only about 10 percent of the illegal trade gets confiscated.<sup>119</sup>

For those smugglers who are caught, punishments are minimal. Under the most serious circumstances, violation of the ESA carries a criminal penalty of up to one year in prison and/or a \$50,000 fine.<sup>120</sup> In fact, during a two-year sting operation, Malaysian wildlife kingpin Anson Wong repeatedly sold some of the world's rarest animals to undercover FWS agents.<sup>121</sup> "He express mailed protected species—including a Southeast Asian false gharial and Madagascan radiated tortoises, both Appendix I—to fake drop addresses in the United States."<sup>122</sup> He also offered to sell agents twenty Timor pythons, and several Spix Macaws, both of which were thought to be extinct.<sup>123</sup> When agents finally arrested him, the maximum punishment he could—and did—receive was seventy-one months in prison, and even that sentence required creative use of the Lacey Act<sup>124</sup> to increase his charges.<sup>125</sup> Wong's business continued to thrive during his imprisonment, and he resumed trade immediately after his release.<sup>126</sup>

Lastly, enforcement has one large logistical and practical problem: What to do with the seized animals? CITES instructs parties "to provide for the confiscation [of these animals] or return [them] to the State of export."<sup>127</sup> Most countries have nowhere to keep the animals and, with sanctuaries consistently at capacity, are forced to return them to the exporting country—to the people who smuggled them in the first place. With so few repercussions, new and existing safari parks, zoos, and private collection owners routinely exploit

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119. *About Service Wildlife Inspectors*, *supra* note 116.

120. "Any person who knowingly violates any provision of this chapter, of any permit or certificate issued hereunder, or of any regulation issued in order to implement subsection (a)(1)(A), (B), (C), (D), (E), or (F), (a)(2)(A), (B), (C), or (D), (c), (d) (other than a regulation relating to recordkeeping, or filing of reports), (f), or (g) of section 1538 of this title shall, upon conviction, be fined not more than \$50,000 or imprisoned for not more than one year, or both." 16 U.S.C. § 1540(b).

121. Christy, *supra* note 23.

122. *Id.*

123. *Id.*

124. 16 U.S.C. §§ 3371–3378 (2012). The Lacey Act makes it a federal crime to violate wildlife laws, and allows smugglers to be caught even if they are not in possession of the animal. *Id.* Since high-end smugglers like Wong never transport animals themselves, this Act is one of the only ways to prosecute them.

125. Without the Lacey Act, Wong would have been charged with a violation of the ESA, which has a maximum of sentence of one year. 16 U.S.C. § 1540(b).

126. Christy, *supra* note 23.

127. *Id.*

opportunities to illegally acquire high-profile species. Such transactions, though illegal, yield significant rewards and pose little to no risk.

There are also several systemic problems that thwart CITES' enforcement. First, there are significant economic pressures. Most smuggled animals are captured in poor countries by impoverished individuals who sell wildlife in order to feed their families.<sup>128</sup> Wildlife is infinitely more profitable than traditional revenue sources such as farming. In Ecuador, for example, one Scarlet Macaw baby can be sold for \$150—more than most people in the area make in a year.<sup>129</sup> As a result, villagers are rampantly cutting down trees, competing with one another to capture birds.<sup>130</sup> They do not consider the environmental repercussions of their actions; they are simply doing what they can to survive.<sup>131</sup>

The financial incentives flow all the way up the chain of command, and corruption is rampant. In many developing countries, becoming a CITES official is a highly coveted job—largely because of the perks of receiving substantial bribes.<sup>132</sup> At the same time, animal smugglers are powerful, and are often able to remove ministry officials who do not cooperate.<sup>133</sup> In Guinea, a CITES investigation found that the minister had distributed signed stacks of blank permits to some of the local kingpins, and was no longer inspecting any of the animals.<sup>134</sup> Illegal species were shipped together with legal ones, sometimes hidden, sometimes in plain sight using the captive breeding exception.<sup>135</sup> In another instance, a nongovernmental organization (NGO) volunteer saw a man walking a chimp down the beach.<sup>136</sup> Since private chimp ownership is illegal in Guinea, she arranged to have the man arrested, and to have the chimp taken to her organization's sanctuary.<sup>137</sup> When the dealer explained that he was

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128. Bergman, *supra* note 2.

129. *Id.*

130. *See id.* (describing a culture in which poaching birds by cutting down trees is tacitly accepted, and in which several nests were cut down within weeks of being spotted).

131. *Illegal Wildlife Trade: Combating the Trade in Endangered Species*, WWF CANADA, <http://www.wwf.ca/conservation/species/trade> [<http://perma.cc/6K9Z-XFGV>].

132. AMMANN ET AL., *supra* note 46, at 32.

133. *See id.*

134. One government official verified the CITES permits as a matter of course, even though he was not the official CITES Management Authority representative. *Id.* at 27.

135. *See id.* at v.

136. *See id.* at 28.

137. *See id.*

“taking care of the chimpanzee and that it belonged to a well-known drug trafficker in Guinea, who was currently out of the country,” the judge not only released him, but also provided him with the NGO’s address and encouraged him “to go there and claim ‘his’ chimpanzee back.”<sup>138</sup> Stories like this are all too common, but as a former NGO volunteer explained, “this is Guinea. Anything goes, so long as you grease the short arm of the law.”<sup>139</sup>

#### IV. THE FUTURE

With these systemic obstacles to success, the future seems bleak for CITES and for people like Dr. Hare, who want to end the illegal animal trade. The situation, while challenging, is not hopeless. On an international level, trafficking can be deterred through changes to CITES itself. Specifically, the captive breeding loophole must be closed, and the voluntary self-enforcement curbed. On a national level, U.S. laws on pet ownership can be expanded in order to cut down on demand. On an individual level, citizens can increase public awareness of both the dangers of exotic animal ownership and the harm that it causes. This section will explain how these ideas might be implemented, while also noting the systemic impediments to implementation.

First, the captive breeding exception must be eliminated, or at a minimum, monitored and enforced. There are several ways this could be done. Some organizations have suggested DNA testing for animals being presented as captive-bred,<sup>140</sup> but there has thus far been little political will to implement such an expensive and time consuming practice. Therefore, an alternative proposal is to create and maintain a database of legally owned captive animals, and to track their offspring each year. Since, under the current system, smugglers are successfully transporting more “captive-born” animals than could possibly be produced by the number of captive animals in their country, simple tracking could highlight and possibly decrease the problem.

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138. *Id.* at 28–29.

139. *Id.* at 27 (quoting *Primordial Earth*, TRAVELJOURNAL.NET, <http://www.traveljournals.net/stories/30352.html> [<http://perma.cc/2GAQ-DCEY>]). Michael Stoerger is a volunteer with the Chimpanzee Conservation Center and has been interviewed by leading experts in the field including Karl Amman. *Id.* at 27 n.20.

140. *E.g.*, STILES ET AL., *supra* note 109, at 47.

Second, CITES should eliminate the self-enforcement provisions, and instead place foreign diplomats, paid by CITES, in the Ministry office in order to reduce the impact of corruption. Of course, where multiple governments are benefitting from corruption, there may be little will for their representatives to police one another. Given the extreme poverty in many of the countries where poaching occurs, financial incentives may be the most successful source of change. To address this challenge, CITES' more powerful member states could provide financial incentives for poorer countries to enforce these rules—either through economic benefits or sanctions for the countries, and/or through payments to individual citizens to report wrongdoing. Additionally, many countries that want to fulfill their obligations under CITES struggle with the financial costs of doing so. Mexico, for example, was a latecomer to CITES membership due to concerns over the costs of enforcing extensive bans on hunting animals that have been hunted for centuries.<sup>141</sup> Financial support would help these countries increase their enforcement efforts.

There are also several domestic changes the United States could make to reduce this problem. The majority of the demand comes from the United States and China, yet the U.S. government is just beginning to address this demand. In February 2014, the White House announced a new National Strategy for Combatting Wildlife Trafficking.<sup>142</sup> The strategy identifies three strategic goals: strengthen domestic and global enforcement, reduce demand, and strengthen partnerships with the international community and NGOs.<sup>143</sup> Domestically, the Strategy proposes to increase the resources available to FWS and expand coordination among the various agencies that come in contact with aspects of the smuggling operations.<sup>144</sup> Notably missing from this strategy, however, is a plan for stricter laws on pet ownership—either through the introduction of

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141. BRUCE WAGMAN & MATTHEW LIEBMAN, *A WORLDVIEW OF ANIMAL LAW* 290 (2011).

142. THE WHITE HOUSE, *supra* note 3, at 1. This strategy was created in preparation for the London Conference on the Illegal Wildlife Trade, which was held that same month. The Conference, called by the United Kingdom, brought together world leaders “to agree a high level political commitment to take urgent action to tackle illegal wildlife trade.” *London Conference on the Illegal Wildlife Trade 2011*, GOV.UK, <https://www.gov.uk/government/topical-events/illegal-wildlife-trade-2014/about> [<http://perma.cc/TT75-L5NL>] (last visited Apr. 30, 2015).

143. THE WHITE HOUSE, *supra* note 3, at 5.

144. *Id.* at 7.

a federal law or cooperation with states to strengthen existing state laws. A federal law banning the sale of exotic animals could be passed under the commerce power, and would help combat the illegal trade by preventing movement of exotic animals across state lines. The Captive Wildlife Safety Act,<sup>145</sup> passed in 2007, took a step in this direction by making it illegal to transport, buy or sell lions, tigers and other large cats in interstate commerce,<sup>146</sup> but it too has exceptions. A broader law—applicable to all exotic pets and containing fewer exceptions—is necessary to adequately control this trade.

There are no accurate estimates of the number of exotic animals in the United States, largely because there are few reporting requirements.<sup>147</sup> In many states, “[y]ou must have a license to own a dog, but you are free to purchase a lion or baboon and keep it as a pet.”<sup>148</sup> Currently, exotic animal ownership is legal in a large number of states, even when the animal originally arrived through illegal means.<sup>149</sup> For example, Travis the chimpanzee was the offspring of a retired zoo chimpanzee and wild chimpanzee stolen from the jungle.<sup>150</sup> A breeder in Missouri purchased both chimps and then bred them for several years, charging \$50,000 per infant.<sup>151</sup> She faced no criminal or civil penalties for either the smuggling or the subsequent attack.<sup>152</sup>

A second domestic approach to curbing demand is to engage the agricultural lobby. As one of the strongest in the country,<sup>153</sup> the

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145. Captive Wildlife Safety Act, 16 U.S.C. §§ 3371–3372 (2012).

146. Regulations to Implement the Captive Wildlife Safety Act, 72 Fed. Reg. 45,938 (Aug. 16, 2007) (“[It is] illegal to import, export, transport, sell, receive, acquire, or purchase, in interstate or foreign commerce, live lions, tigers, leopards, snow leopards, clouded leopards, cheetahs, jaguars, or cougars, or any hybrid combination of any of these species, unless certain exceptions are met.”).

147. The primary reporting requirements for each member state consist of an annual report with lists of each CITES trade, and a biennial report on legislative, regulatory and administrative measures taken to enforce the Convention. CITES Treaty, *supra* note 84, art. VIII(7).

148. Slater, *supra* note 39, at 106.

149. See *Summary of State Laws Relating to Private Possession of Exotic Animals*, BORN FREE USA, [http://www.bornfreeusa.org/b4a2\\_exotic\\_animals\\_summary.php](http://www.bornfreeusa.org/b4a2_exotic_animals_summary.php) [<http://perma.cc/YPB5-FNXM>](last visited May 26, 2015) (categorizing all 50 states’ exotic animal ownership laws (or lack thereof) into four categories: ban, partial ban, licensing requirements, or no restrictions).

150. Lee, *supra* note 57.

151. *Id.*

152. *Id.*

153. See, e.g., *Ten of the Biggest Lobbies in Washington*, BUSINESSPUNDIT.COM (Apr. 26, 2011), <http://www.businesspundit.com/10-of-the-biggest-lobbies-in-washington> [<http://perma.cc/2JDS-VEJU>] (last visited May 26, 2015) (“These [agricultural] companies spend upwards of

agricultural lobby has the power to effect important changes in the law. Accordingly, highlighting the threats the exotic animal trade poses to domestic farm animals may be the most effective strategy in improving domestic law. The threats include: the risk of disease transmission between animals and the resulting potential to wipe out entire herds; the risk of transmission to animals resulting in tainted meat, which could cause a sharp decline in consumption of certain types of meat; and the risks of bushmeat as both a competitor to regular meat and a source of fraudulent meat that could cause illness that may subsequently be attributed to standard meat sources. If these risks can be proven with scientific data or highlighted with public outcry, the laws are more likely to change.

Finally, because much of the trade is the result of lack of knowledge, public awareness campaigns may help decrease demand for exotic animals on an individual level. Consumers are currently unable to make informed choices about exotic animals because of the limited information available.<sup>154</sup> Fortunately, media coverage of events from animal attacks to zoonotic infections is increasing, but this coverage is focused on the sensational events, and sheds little light on the cause. Most recently, the news highlighted the massacre of forty-nine lions and tigers that were shot by police after their owner opened their cages and then committed suicide.<sup>155</sup> Their owner was a convict who had been arrested by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) for possession of illegal firearms, and officials had previously noted the unsanitary conditions and cruelty to which the animals were being subjected.<sup>156</sup> Most of the subsequent coverage focused on Thompson's mental illness, but one GQ reporter asked an important question: "Is it really possible to own and house fifty-six exotic animals without breaking a single

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\$150 million each year, funding campaigns and pushing legislation through Congress. Agribusiness lobbyists are responsible for holding up bills regulating food labeling, climate change, and biofuel production."); see also TRAVIS MADSEN, BENJAMIN DAVIS, BRAD HEAVNER & JOHN RUMPLER, *GROWING INFLUENCE: THE POLITICAL POWER OF AGRIBUSINESS AND THE FOULING OF AMERICA'S WATERWAYS* 4 (2011), <http://www.frontiergroup.org/sites/default/files/reports/Growing-Influence.pdf> [<http://perma.cc/4XSV-E4LA>] ("The agribusiness lobby is well known as one of the most powerful in Washington, D.C., and many states.").

154. *Illegal Wildlife Trade*, *supra* note 45.

155. Christina Caron, *Zanesville Animal Massacre Included 18 Rare Bengal Tigers*, ABC NEWS (Oct. 19, 2011), <http://abcnews.go.com/US/zanesville-animal-massacre-included-18-rare-bengal-tigers/story?id=14767017&singlePage=true> [<http://perma.cc/D7EG-LY33>].

156. *See id.*

law?”<sup>157</sup> Sadly, the answer in much of the United States is yes, but very few people are aware of those laws, or the lack thereof.

#### CONCLUSION

The law as it currently stands clearly does not address the growing exotic animal trade and its severe consequences. With several impediments to CITES enforcement, the only option for improvement may come from public pressure. In the meantime, the animal trade is alive and well.

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*Anson Wong has now served time in Mexico, Malaysia and the United States. His export license was revoked in 2013 after he attempted to smuggle ninety-five endangered boa constrictors to Indonesia. An undercover investigation shows he has continued to trade, unfazed by his country's slap on the wrist. He remains one of the world's most profitable illegal trade kingpins.*<sup>158</sup>

*Antoine Yates now lives in Nevada and by 2010, with the help of celebrities sympathetic to his cause, he had acquired twenty-two big cats, including four tigers.*<sup>159</sup> *His ultimate goal, however, is to be reunited with Ming.*<sup>160</sup> *He may very well succeed.*

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157. Chris Heath, *18 Tigers, 17 Lions, 8 Bears, 3 Cougars, 2 Wolves, 1 Baboon, 1 Macaque, and 1 Man Dead in Ohio*, GQ MAG. (Feb. 2012), <http://www.gq.com/news-politics/newsmakers/201203/terry-thompson-ohio-zoo-massacre-chris-heath-gq-february-2012> [<http://perma.cc/GXR6-5V67>].

158. Paul Gallagher, *Malaysia's Notorious 'Lizard King' Anson Wong is Back in Business – to Dismay of Wildlife Campaigners*, THE INDEPENDENT (Nov. 22, 2013), <http://www.independent.co.uk/news/world/asia/malysias-notorious-lizard-king-anson-wong-is-back-in-business--to-dismay-of-wildlife-campaigners-8957450.html> [<http://perma.cc/YPE4-JVJ9>].

159. Ravi Somaiya, *The Trouble with Tigers*, NEWSWEEK (July 28, 2010, 11:15 AM), <http://www.newsweek.com/trouble-tigers-74405> [<http://perma.cc/3T2V-BK7E>].

160. *Id.*