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## Framing Elephant Extinction

[André Nollkaemper](#)  
University of Amsterdam

Framing plays an essential, though not always recognized, role in the development of international law. Frames are perspectives that highlight parts of reality over others. They are chosen so as to promote particular evaluations and policies.<sup>1</sup> Theoretical work in political and communication sciences has shown that different frames have distinct normative and regulatory implications. This is relevant to international law, as Judith Butler or Nancy Fraser, to name but a few authors, have demonstrated.<sup>2</sup>

The concept of framing comes to mind when reading two recent UN Security Council Resolutions ([Res. 2134](#) and [Res. 2136](#)). Concerned that wildlife poaching may fuel ongoing conflicts in the Central African Republic and the Democratic Republic of Congo, the Security Council sought to stem the killing of wild animals for profit.<sup>3</sup> It did not target poaching because of its effects on wildlife, but because of its security implications.

In this Reflection, I suggest that while this security frame may add much wanted teeth to an otherwise weak wildlife protection regime, it also misrepresents - or, to borrow a term from Nancy Fraser, 'misframes' - a complex reality. An integrated approach may better serve both wildlife and humans who have a stake in its survival. However, such an approach will expose intricate political choices as to what and who international law should and should not protect. For the purposes of this Reflection, I will focus on the elephant, which, due to the lucrative ivory market, is at the heart of the wildlife-security interface.

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<sup>1</sup> See for conceptual discussions of framing in the social sciences e.g. Erving Goffman, *Frame Analysis: An Essay on the Organization of Experience* (Northeastern University Press 1974); Robert M Entman, 'Framing toward Clarification of a Fractured Paradigm' 43 *Journal of Communication* (1993) 51.

<sup>2</sup> Judith Butler, *Frames of War: When Is Life Grievable?* (Verso 2009); Nancy Fraser, *Scales of Justice: Reimagining Political Space in a Globalizing World* (Columbia University Press 2010).

<sup>3</sup> See for discussion Anne Peters, 'Novel Practice of the Security Council' (EJIL talk, 12 February 2014).

The extinction of the elephant has been framed in a number of different ways. First there was the 'hunting frame'. Western powers framed the elephant as a species that needed to be protected to provide hunters with trophies and to secure ample amounts of ivory, which was a major source of colonial European revenues.<sup>4</sup>

Much later, extinction of elephants came to be seen as a problem because it would reduce the variety of life. The 'biodiversity frame' focuses on the survival of the species as a whole. It tells us to act not for the benefit of hunters, but to care for the 'intrinsic value of the species' as the Biodiversity Convention coins it.

Yet another frame construes elephant extinction as a criminal law problem. The criminal law approach is not only a tool used to promote goals that may result from other frames. Rather, understanding poaching as 'criminal' has become a frame of sorts itself, comparable to dominant perspectives on human trafficking, narcotics, corruption and terrorism.

Quite separate from these concerns, in particular African states have pushed a frame that construes elephant extinction as a problem that is part and parcel of the quest for land, resources and development. This 'development frame' seeks to find pathways towards development that allow for growth and human expansion, while incorporating the wildlife dimension.

And now there is the frame of security. Those who adopt this frame are not necessarily concerned with survival of the species or with sustainable development, but with the link between wildlife trafficking and armed conflict. For rebel movements and militias, ivory is a means to pay for their wars and their underlying political agenda. Cutting back on poaching may deprive rebel movements and militias of resources and thereby enhance security.

Distinguishing between these frames is not a sterile analytical exercise. Choosing between them involves deeply political decisions that matter in terms of who is to be protected by international law.<sup>5</sup> Should international law support the interests of the hunters, the species, humans in their quest for development or societies that suffer from armed conflict? Or should it protect individual elephants as such, irrespective of concern over hunters, biodiversity, crime, development or security (based on an animal rights frame that so far has failed to make an impact on the discussions)?

The choice between frames also matters for the question *what* is to be regulated and what not, and thus for the choice for particular treaties and other instruments. It would be too simple to say that a frame directly dictates particular regulatory approaches, but we can identify clear correlations. The hunting frame matches with traditional African conservation treaties. The biodiversity frame corresponds to the Convention on

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<sup>4</sup> This is nicely detailed in a recent study by Rachele Adams, see *Elephant Treaties: The Colonial Legacy of the Biodiversity Crisis* (University Press of New England 2014).

<sup>5</sup> The useful distinction between the 'who' and the 'what' dimension of framing is taken from Nancy Fraser n 2.

International Trade in Endangered Species of Wild Fauna and Flora (CITES) and the Biodiversity Convention. The crime frame fits the United Nations Convention against Transnational Organized Crime and the [Global Programme for Combatting Forest Crime](#), recently adopted under the auspices of the UN Office on Drugs and Crime (UNODC). The development frame reflects ongoing debates on the integration of wildlife protection in the post-2015 sustainable development agenda. Now, the security frame has induced the Security Council to impose travel and financial sanctions on individuals and entities which support armed groups through illicit exploitation of wildlife and wildlife products.

The distinctions between these frames are not watertight. Effective propagation of one frame may lead to effects that are welcomed from the perspective of other frames. Hunters are well served by regulation driven by the biodiversity frame. Likewise, 'securitization' is attractive from the perspective of those who value biodiversity and the survival of the species as such. Present levels of poaching make elephant extinction a realistic prospect as the number of elephants killed by poaching [far exceeds](#) the natural population growth rates. Existing treaties have failed to revert the trend. In this situation, the label of security opens new windows. The two SC resolutions may have powerful effects in the DRC and the CAR that go beyond what could be achieved by CITES. Whoever succeeds in attaching the security label to the protection of any interest gains significant momentum in triggering effective action.

But obviously, security is a limited and transient basis for wildlife protection. Framing poaching as a security issue moves the spotlight away from other considerations, even when these are more critical to species survival. The security frame neglects habitat loss due to human expansion and land conversion, even though this, and *not* poaching, is the most important threat to the African elephant. Effective Security Council action may stop individual cases of poaching and may help to make an area secure, but it may not save the species. Somewhat cynically, one could say that extinction would even enhance security, as it would render unavailable ivory to finance arms.

The security frame also may sit uneasily with the development frame. Framing wildlife issues as a security problem may shift momentum from the negotiation of the post-2015 development agenda to the security agenda. Such a 'securitization of development' may adversely affect policies aimed at poverty reduction in states less associated with security threats. This may have potential negative consequences for wildlife protection – after all poverty is a recognized cause of poaching.

It is therefore on good grounds that some states (led by Gabon and Germany), as well as conservation groups, now aim for an 'alignment' of frames. At low diplomatic levels, a range of proposals have been made for a more integrated approach to the problem of elephant extinction.<sup>6</sup>

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<sup>6</sup> Several proposals, including those listed below, are contained in the Letter of 29 October 2013 from the Permanent Representatives of Gabon and Germany to the United Nations addressed to the Secretary General, UN Doc. A/68/553.

None of the existing institutions is well positioned to provide a forum to implement such proposals. The mandates of CITES, UNODC, the Security Council and so on are limited. Once an institution has been set up, the law freezes the frame and limits their relevance to other frames.

But there are options beyond existing institutions. One possibility is to shift the discussion to the General Assembly. The GA could adopt a broader agenda and drive forward the political debate and regulatory integration of the various conservation, development, crime and security frames.

Another option is to appoint a Special Representative to the Secretary General. While current proposals for such a representative seem to be inspired by the security agenda, the mandate need not be limited to that. (S)he could, on a more continuous basis than the Security Council or the General Assembly, leverage support beyond the narrow security agenda, strengthen institutional linkages and seek to further cross-sectorial implementation of international commitments.

Whether any of this will matter in terms of outcomes remains to be seen. Combining frames is far from a neutral exercise. Frames are selected by particular actors with particular agendas and particular bases of power. The differences between them cannot be overcome by simply handing the problem of elephant extinction to the General Assembly and/or a Special Representative. Taking sanctions against poachers who kill for ivory so as to finance arms is a relatively easy decision, but it only scratches the surface of the problem. Measures that address the root causes of the poaching problem, that curtail demand, that set aside land areas where species can effectively be protected, that do so in a way that it can be reconciled with rural and urban development in 'the South' and that incorporate the responsibility of 'the North' are infinitely more difficult to agree on.

However, the institutional options of the GA and a Special Representative may at least provide for a common political platform where frames can communicate, tensions can be articulated and synergies may be found. The elephant may be well served if the 'securitization' of its extinction would trigger for broader normative and institutional development, embracing all frames holistically while taking into account potential trade-offs between the different frames which may arise.