

Tanzania's "Ivory Queen" denied release after appeal

by Lucy Taylor on 17 June 2021

- *Judge sends case of trafficking ringleader Yang Fenglan back to trial court.*
- *Case is among Africa's biggest wildlife trafficking convictions, involving 860 elephant tusks worth \$6 million.*
- *Yang and two co-accused remain in jail but will have opportunity for new appeal.*
- *Tanzania's Director of Public Prosecutions tells Mongabay the case is a message to the world.*

One of the world's most infamous ivory traffickers will remain in prison in Tanzania after an appeal judge sent her case back to a lower court. The high court accepted there were anomalies in the original written judgment against Yang Fenglan, but declined her attorney's application for her release. Between 2009 and 2014, poachers reduced Tanzania's elephant population by 60%, according to a government census. In response, Tanzania developed a strategy of intelligence-led investigations

(<https://news.mongabay.com/2021/06/poaching->

Conversation

specially-formed National Taskforce on Anti-Poaching (NTAP), to identify, arrest, and prosecute major players and so disrupt wildlife trafficking networks. It has also strengthened wildlife laws and sentences. The task force has been supported by an NGO, PAMS Foundation (<https://news.mongabay.com/2017/08/leading-ivory-trade-investigator-slain-in-tanzania/>). The September 2015 arrest of Yang Fenglan, a Chinese businesswoman and long-term resident of Tanzania known as the "Ivory Queen", can be counted as a successful outcome of the strategy.

Yang was convicted in February 2019 of leading an organised crime syndicate trafficking 860 elephant tusks, worth more than \$6 million. She and two Tanzanian accomplices were sentenced to at least 15 years in prison.

During the appeal heard last month at Tanzania's High Court, Judge Edwin Kakolaki accepted a claim by Yang's attorney that there were anomalies in the way the judgment was written. Kakolaki said the judgment most notably did not give the points of determination in the case.

"The importance of point(s) for determination in the judgment is like a compass in the cruising ship or dhow in the deep sea. The ship or dhow without compass is likely to get lost in the deep sea and dock on unintended or unexpected port for loss of direction."

On May 31, he set aside the judgment of the trial court, but declined an application to release her, instead ordering the trial magistrate to return to court and deliver his verdict again.

Trial proceedings will not be heard again, and the directive at the appeal hearing is not expected to change the convictions or sentences.

Yang and her co-accused, Salvius Francis Matembo and Manase Julius Philemon, will have a chance to contest the appeal decision or begin a new appeal once the judgment is delivered again in the lower court.

Popular in the Community



In February 2019, Yang Fenglan was convicted in Tanzania for leading an organised crime syndicate and trafficking 860 elephant tusks. Image in the public domain

The appeal hearing was closed to journalists and onlookers, but the Director of Public Prosecutions, Sylvester Mwakitalu, afterwards agreed to an exclusive interview for Mongabay.

"The conviction of Yang Fenglan sends a message to other kingpins who are dealing, or intending to deal, in illegal wildlife trafficking," Mwakitalu said.

"Not only that, it sends a message to the international community, and encourages investigators and prosecutors. It makes the judiciary part of the fight against illegal wildlife trafficking."

Yang, now 71 or 72, has lived in Tanzania on and off since the 1970s and owned a popular Chinese restaurant in Dar es Salaam. Fluent in the national language, Swahili, she previously worked as a translator, and was for a time the Secretary-General of the Tanzania China-Africa Business Council.

Asked whether Yang's status as a Chinese national posed any unique challenges, Tanzania's DPP simply said: "It has diplomatic implications."

The original verdicts, handed down in February 2019, hung on evidence from 11 prosecution witnesses, including a watchman, a taxi driver, and a waiter at Yang's restaurant who said they had knowledge of dealing in elephant tusks between the co-accused.

The prosecution also called a branch manager of Barclay's Bank to the stand to testify that bank statements showed financial transactions of thousands of dollars between Yang and Philemon.

on a black pepper farm in Tanga region, north of Dar es Salaam. He testified that he had helped her to bury it on the grounds. Yang was ordered to forfeit the buildings and land as part of her sentence.

Yang, Matembo, and Philemon were each sentenced to 15 years in prison for the offence of leading organised crime, along with an additional two years in prison or a fine of double the estimated value of the tusks for the offence of illegally dealing in wildlife parts, known in Tanzanian law as government trophies.

DPP Mwakitalu listed numerous challenges with Yang's case, including that she was never found with tusks, nor at a crime scene — the charges against her did not include being in possession of ivory.

He said the duration of the case, and the difficulty in finding direct witnesses also made it more complex. But he went on to praise the police work.

"There was a prosecution-led investigation at the earliest stage, a financial investigation with suspects' bank statements, parallel properties investigations, and direct evidence from people who worked with the accused. All of that made it a success."

The DPP paid tribute to the state's partners.

"Non-profit organisations can play a great role towards ending ivory trafficking. For instance, PAMS Foundation played a crucial role in this particular case."

On May 31, the High Court of Tanzania set aside the judgment of the trial court and nullified the sentence hearing proceedings. Judge Kakolaki asked for the orders to be effected as soon as practicable.

Yang and her two accomplices continue to deny any involvement in the illegal wildlife trade, saying not only that the case against them is fabricated, but that they had no knowledge of each other before their arrests. Attorneys for each of the three filed written submissions arguing their grounds of appeal, along with a written response from the state's lead attorney. But Judge Kakolaki did not discuss any of these other than the anomalies in the original judgment.

Advocate Nehemiah Geoffrey Nkoko, an attorney for Yang and Matembo, told Mongabay after the appeal hearing that it was too soon to comment on what their next steps would be.



Destroying confiscated elephant tusks in Kenya: wave of poaching swept across East and Southern Africa a decade ago. Tanzania lost more than half its elephant population between 2009 and 2014. Image by Kamweti Mutu via Flickr (CC BY-NC-ND-2.0)

Tanzania making encouraging progress in prosecuting traffickers

Yang Fenglan is the most high profile of a number of Chinese nationals arrested for alleged involvement in the illegal wildlife trade in Tanzania by the NTAP.

In a separate case — held the week before Yang's appeal hearing — Tanzania's Court of Appeal upheld the convictions of two Chinese men who were previously found guilty of possession of 706 pieces of elephant tusk. Huang Qin and Xu Fujie were sentenced to 30 years each in prison at their original trial in 2016, after being arrested with tusks weighing almost two tonnes and worth more than five million US dollars.

On May 25, three appeal court judges said the original convictions should stand. However, they reduced the sentences to 20 years each in prison, to take into account that the two men were first-time offenders in law.

Both judgments will have come as a relief for prosecutors in the region, after an appeal in a separate case last year quashed the conviction of another alleged ivory kingpin, Boniface Malyango and his brother Lucas.

Boniface Malyango is also known as "Shetani Hana Huruma", which means "The Devil Without Mercy" in Swahili, the official language of Tanzania. His case became infamous around the world after his arrest featured in a 2016 Netflix documentary, *The Ivory Game*, of which Leonardo Di Caprio was an Executive Producer.

said they had collected, transported, and sold 118 elephant tusks, worth \$850,000. For that offence, they did not have to prove possession.

But in a blow to the fight against trafficking in Tanzania, three judges at Tanzania's Court of Appeal quashed their convictions, releasing both men in July 2020.

A separate appeal in the same week upheld the convictions of Malyango's associates. The DPP, Mr Sylvester, defended Tanzania's progress despite Malyango's release.

"The fight against illegal wildlife trafficking is more about syndicates and organised crime. In this respect, Boniface Matthew Malyango's syndicate, amongst others, has to a large extent been dismantled.

"This can be seen through the populations of elephants and other wildlife, which has increased tremendously."

Conservation groups say the lucrative illegal trade in elephant tusks in African countries is fuelled by demand for ivory in China and other Asian countries. China banned domestic ivory trading in 2018, but ivory is still sold illicitly for carved ornaments and jewellery, and for some uses in traditional Chinese medicine.

After the original verdict in the Yang Fenglan case, a spokesman for China's Foreign Ministry, Geng Shuang, said the country had "zero tolerance" for wildlife trafficking.

"We support the Tanzanian authorities in conducting a just investigation and trial of the case."

International anti-poaching NGOs say that the crackdown on wildlife crime networks has protected elephants in Tanzania.

Mary Rice, Executive Director of the Environmental Investigation Agency (EIA), said the conviction and 15-year sentence of Yang Fenglan had sent a strong message to criminal networks in and out of Tanzania.

"It was important that the message went out nationally and internationally to ensure that anyone thinking of following that path recognises that Tanzania will come down on them like a ton of bricks. And they should, because their elephant population is precious to them, not just in terms of biodiversity but also as a source of [tourism] revenue," she told Mongabay.

"Tanzania took a really hard line on this, eventually, after much persuasion, and were leading. They need to make sure that they

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looking to go to Tanzania for investment or tourism, but it also galvanises other governments to take a strong line as well." Lucy Taylor is an environment journalist and TV and radio reporter @lucytaylor (<https://twitter.com/lucytaylor?lang=en>)
Banner image: worked ivory on display in Hong Kong. Image by Warren R.M. Stuart (CC BY- 2.0)

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