
Making Democracy Work:

The Impact of the Constitution upon the Management of Elephants in Post-Apartheid South Africa

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Introduction

- ❁ New order
- ❁ SANParks is an organ of state
- ❁ Decision to cull must be justified in terms of principles laid out by:
 - ▶ Courts
 - ▶ Legislation
 - ▶ Constitution

Principles for Justifying Decisions

- ✿ Section 24 – decisions must be **reasonable**:
 - ▶ Rational connection between power of state body, purpose and means
 - ▶ Considerations of proportionality
 - Consider consequences of actions
 - Are there less restrictive means to achieve purpose?

Is Culling Rational?

- ❁ Purpose of SANParks
- ❁ Pro-culling claim: Elephants threaten biodiversity
- ❁ Scientific studies:
 - ▶ No widespread destruction in KNP
 - ▶ Breeding rate falls
 - ▶ Ecosystems are dynamic
 - ▶ Culling may harm biodiversity

**Culling is irrational without
clear scientific foundation!**

Is Culling Proportional?

❁ Drastic decision

- ▶ Violates animal interests
- ▶ Human interests

❁ Alternatives

- ▶ Greater Limpopo Transfrontier Park
- ▶ Contraception

**Culling is unreasonable –
less drastic alternatives exist!**

Conclusion

- ✿ Culling may well be irrational
- ✿ Culling is unreasonable
- ✿ Culling violates ethical constraints on democratic decision-making
- ✿ The validity of the decision to cull may be successfully attacked in court

Conclusion

“Elephants are not . . . to be exterminated; they deserve something better than that . . . ethics and morality should be essential considerations in our decisions for their future.”

Cynthia Moss, 1988, Elephant Memories