

**Testimony of
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Legislative Hearing on H.R. 3029: *The Bear Protection Act of 2007*

**Subcommittee on Fisheries, Wildlife and Oceans
Committee on Natural Resources
United States House of Representatives
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EXECUTIVE SUMMARY

This testimony represents the views of the two largest groups of professional bear biologists and conservationists in the United States and globally (IUCN Bear Specialist Group and International Association for Bear Research and Management). We applaud the desire of the U.S. Congress to aid in the conservation of bears. Here, we raise four principal points regarding the proposed Bear Protection Act: (1) American black bears in the U.S. (and Canada) are thriving, and are minimally affected by poaching for bear parts. The Bear Protection Act will have little impact on populations of this species, now or in the future, although it may help to apprehend some poachers. (2) Poaching for bear parts (gall bladders and paws) is still rampant in Asia, even though the killing of bears and selling of bear parts is illegal in most Asian countries, and import and export of bear parts within Asia and between Asia and the U.S. is regulated by CITES. The Bear Protection Act, as written will provide no benefit to bear populations in Asia. (3) We recommend two additions to the bill: the inclusion of bear paws among the items banned from trade, and an exemption for scientists to transport bear parts across state lines for research purposes. Because there is great interest in the physiology of bear hibernation and potential applications to human medicine, some organs of bears are of particular interest, and are often shipped to experts in different parts of the country. (4) As this bill suggests a genuine concern by the U.S. Congress about the detrimental effects of the trade in bear parts on bear populations worldwide, we recommend more effective legislation that would directly address the dire situation for bears in Asia. Reduction of poaching is the paramount issue, and a multi-faceted effort to accomplish this will require significantly increased funding. Funding is also necessary to evaluate and address the issue of Chinese and Vietnamese bear farms (where ~13,000 bears are milked for their bile), and to provide scientific data on the extent, relative size, and changes in populations of wild bears, which can be used to highlight conservation problems and direct resources. If the Bear Protection Act included a funding provision like that of other multinational species conservation acts, this would dramatically improve the outlook for Asian bears.

INTRODUCTION

Madam Chair and Members of the Subcommittee: My name is David Garshelis, and I am delighted to have been invited to comment on the proposed Bear Protection Act from the perspective of a bear scientist and applied conservationist. For the past 25 years I have been a professional bear researcher for the Minnesota Department of Natural Resources. For nearly 20 years I have also conducted research projects on Asian bears, in collaboration with Asian students and biologists. The views expressed here are not only my own, but represent those of both the IUCN/SSC Bear Specialist Group (BSG) and the International Association for Bear Research and Management (IBA). I co-chair the BSG with Dr. Bruce McLellan, and am an ex-officio member of the governing Council of the IBA.

The BSG and IBA are the largest and most respected professional organizations for wildlife biologists working to manage, conserve, and restore the world's bears. These two organizations work closely together in gathering and utilizing scientific information to sponsor, conduct, and evaluate conservation and management programs on all eight species of bears. These organizations are comprised of nearly 600 bear specialists from over 50 countries, and include university professors, biologists working in natural resource agencies, non-governmental organizations, and zoos, graduate students, and educators. Our members conduct scientific research, monitor and manage bear populations, interact with government agencies to promote bear conservation, and work to prevent human-bear conflicts. IBA sponsors international conferences and publishes the peer-reviewed scientific journal *Ursus*, which is the foremost source of technical and scientific information about the world's bears.

Both groups have had input into and approved the following testimony regarding the proposed Bear Protection Act.

STATUS OF WILD BLACK BEARS IN THE U.S.

American black bears (*Ursus americanus*) range through Canada, the United States, and northern Mexico. As recently as the 1970s, most U.S. states had declining populations, and were struggling to reverse a long downward trend. That decline resulted mainly from extensive forest clearing combined with the unrestricted killing of bears as nuisances or pests. This trend has since been reversed through habitat management (mainly targeted at other species, but benefiting bears), stricter regulations regarding the killing of nuisance bears, public education on avoiding nuisance bear situations, and tighter regulation of hunter harvests.

Compared with most other North American big game species, American black bears have a low reproductive rate, so population recovery tends to be slow. Recovery may also be hampered by habitat fragmentation in some places (e.g., Louisiana and Florida). Nevertheless, the return of robust populations of American black bears has been a significant success story across the continent.

Today at least 17 of 41 states with resident black bears have populations that are significantly increasing; none have declining populations. Additionally, black bear migrants have appeared

in such states as South Dakota, Nebraska, and Rhode Island (where they have not existed for 200 years).

The total U.S. population of black bears, excluding Alaska, is estimated at about 300,000, and the total Canadian population likely exceeds 450,000. State management agencies or universities have conducted scientific studies to estimate population size and rates of change of many U.S. bear populations. At least 18 states estimate populations of 5,000 or more black bears, 8 of which have more than 20,000. No reliable estimates exist for Alaska, but the population of black bears there is believed to exceed 100,000, yielding a total for the continent of ~900,000. The continental population has been growing at about 2% per year for the past two decades.

Black bears are presently harvested as a game species in 28 U.S. states and 12 Canadian provinces or territories. The annual hunter harvest across the continent is 40,000–50,000 black bears. Hunters kill bears for recreation and for products, such as the hide and meat. Some surveys have indicated that hunters view the acquisition of meat as a prime reason for black bear hunting. The sale of meat is banned, but many U.S. states and all Canadian provinces with black bears allow the sale of hides and skulls. It is believed, however, that few people hunt specifically to sell these parts, as the profit is likely to be small.

Bear gall bladders and paws, however, can be sold at a sizeable profit. The former is prized in Traditional Chinese Medicine (TCM), and the latter as an expensive delicacy in Asia. The high price of these commodities creates a motive to poach black bears. However, while each year some bear poachers involved in the trade of these parts are apprehended, wildlife agencies across the U.S. and Canada indicate that such poaching has a negligible impact on American black bear populations. The legal harvest of black bears is by far the largest source of mortality for this species. This and all other major sources of human-caused mortality (e.g., nuisance kills, collisions with vehicles, poaching) are now controlled to the extent that in most areas, black bear populations are thriving.

STATUS OF WILD BEARS IN ASIA

Of the eight species of bears in the world, six live in Asia, and four live only in Asia. We center our comments on Asian bears because they have been most severely impacted by the trade in bear parts. Four Asian jurisdictions are the principal users of bear gall bladders and paws (China, Taiwan, Japan, and South Korea), thus prompting illegal importation of these parts from other Asian countries, and sale of parts from bears taken within these countries.

Gall bladders and paws from Asiatic black bears (*U. thibetanus*), Brown bears (*U. arctos*), Sun bears (*Helarctos malayanus*), and Sloth bears (*Melursus ursinus*) are all marketed, but the greatest demand by far is for Asiatic black bears. Accordingly, even in places where Asiatic black bears and Sun bears occur together, poachers target the former. Sun bears and Sloth bear populations are suffering from habitat loss and direct killing for reasons other than the trade in bear parts (e.g., to protect crops or for human safety), whereas the trade in bear parts is a prime concern principally for Asiatic black bears.

Asiatic black bears are very similar to American black bears ecologically and biologically. They occupy 18 countries in Asia, ranging from Iran in the west, across northern India, most of Southeast Asia, north through a large portion of China, the Korean Peninsula, parts of the Russian Far East, Japan, and Taiwan (see map, Appendix 1).

No reliable estimates exist for populations of Asiatic black bears anywhere within their range because scientific data are lacking. However, four countries claim to have more than 5,000 Asiatic black bears (India, China, Russia, and Japan), one of which (China) estimates more than 20,000 (China may have half the world's population of this species). While these may seem to be a large numbers, it is important to realize that most Asiatic black bear populations are highly fragmented by human activities into much smaller isolates, making them even more vulnerable to uncontrolled killing and potential extirpation. Only two countries are believed to have increasing populations of this species: Japan, where they are hunted much like the U.S., and South Korea, where they are increasing only because the small population there is being augmented with bears from Russia. Rangewide, we estimate that numbers of Asiatic black bears have declined by 30–50% during the past 30 years.

A major factor contributing to the decline of Asiatic black bears is thought to be poaching for gall bladders and paws. This information derives from anecdotal reports, surveys of local people, and occasional confiscations of large numbers of bear parts (sometimes in the hundreds). In truth, there is no scientific documentation of the status of this species. Population studies, which are common for bears throughout the U.S. and Canada, and generally funded by state and provincial agencies, are beyond the technical and/or financial means of most Asian countries, and very few American biologists have been able to work on Asian bears due to severe shortages of funding for such cooperative efforts.

Asiatic black bears are killed either directly by commercial bear poachers, indirectly by hunters seeking other species, such as deer or wild boar, or by people protecting their crops or property. In some countries bears are killed with guns, but in many countries guns are illegal so people use wire snares, rat poison, pit-fall traps, or homemade bombs (which the bears bite). Once the bear is killed, whether intentionally or incidentally, the parts are sold, even though this is officially illegal in nearly all of Asia.

WHAT THE BILL WILL ACCOMPLISH

Presently, a variety of laws govern the sale of gall bladders and paws of American black bears. Five U.S. states allow hunters taking a bear in that state to sell the gall bladder, and four of these states plus three others allow the hunter to sell the paws. Another six states (three with healthy bear populations of their own) allow residents to purchase gall bladders and paws from bears taken in other states (but not that state), as long as there is documentation that the kill was by a legal hunter. Four other states, all without bears, have no laws concerning the sale of bear gall bladders or paws, effectively allowing such sales.

Given that legal sales require legal take, and that hunters generally are allowed to take only one bear per year, it seems inconceivable that hunters could have much of a legal business selling bear parts. Moreover, since there are only five states that allow the sale of these parts from their own hunted bears, it is only the bear populations in these states that are potentially affected by any legal commercial trade in these parts; all these states, however, have robust, stable or increasing populations. Hence, the bill is likely to have little or no direct effect on American black bear populations.

It is possible, though, that the illegal trade in American black bear parts is facilitated to an extent by the varied laws that allow some legal trade across state borders. In that sense, the bill may assist law enforcement agencies in catching and prosecuting bear poachers.

The export of American black bear parts to Asia has been regulated by CITES since 1992, when the species was listed in Appendix II due to similarity of appearance of their gall bladders and paws to those of Appendix I Asian bear species. This listing requires a CITES certificate of origin for any parts to be legally transported across international borders; CITES certificates of origin are provided only with proof that the bear was legally taken.

There are very few cases of American black bear parts being legally exported to Asia. Moreover, since all legal exports are from hunter-harvested bears, this trade has little impact on the already well-managed populations of this species. The reason for the CITES Appendix II listing was to require identification tags on these parts, so they could be distinguished from those of Asiatic black bears. This gives law enforcement personnel in Asia greater power to make arrests, as untagged gall bladders of Asiatic black bears could not be passed off as being from legally-obtained American black bears.

This bill would prohibit all export of gallbladders from American black bears. Given the low legal export and CITES regulations already in place, it appears to us that the bill would provide minimal added conservation benefit to Asian bears.

WHAT THE BILL WILL NOT ACCOMPLISH

The stated purpose of the bill is to “conserve global bear populations.” The bill also mentions thousands of bears in China that are kept on farms and milked for their bile. Whereas we agree that the protection of wild Asian bears and elimination of bear farming are noble goals, we believe that the bill will have little or no effect on either. The bill is referred to as the “Bear Protection Act”, but will do little to help bears in the places where they genuinely need more protection.

There is potentially some merit, though, in leading by example, even if the protective measures offered by the bill are not needed in the United States. Thus, although the bill does not directly address the plight of Asian bears, it provides evidence that the United States recognizes that the gall bladder trade is a principal factor impacting Asian bears. Furthermore, passage of the bill would indicate that the magnitude of this issue has persuaded the federal government of the United States to override state laws in order to obtain a unified

position on the trade in gallbladders. That may send an important message to Asia about the U.S. commitment to deter the trade in bear parts.

The problem is that the message, for all its good intentions, may signify little to the countries where the trade in bear parts is particularly problematic. Governments in Asia are already cognizant that bear poaching is largely related to the trade in bear parts, but most either deny that this poaching is having a large effect, or recognize the problem but cannot do anything about it. Most already have strict laws prohibiting the trade in bear parts, but are unable to enforce them (see Appendix II).

The context of the U.S. and Asian situations is so different as to be virtually incomparable, so leading and following really make little sense. American black bears are so numerous that the annual harvestable take through legal hunting approaches the total world population of Asiatic black bears. Gall bladders have no value to most American citizens, so hunters discard them in the woods. American black bear hunters tend to be middle class people who hunt for recreation and for trophies. A law prohibiting trade in gall bladders would affect only a small minority of Traditional Chinese Medicine practitioners living in the U.S. In China, by contrast, there is a large demand for this product by upper income people, while many desperately poor people live in rural areas occupied by bears. To those poor people, killing a bear and selling its parts, particularly a bear that has been damaging their few crops, can make a difference in how much food or medicine they can buy or whether their family can afford small luxury items, like a television. Although both the sale of parts and the killing of bears is forbidden (with a few exceptions), very little enforcement of these laws occurs because there are too few enforcement personnel, and a general lack of recognition that bears are declining. The U.S. model, where tens of thousands of bears are harvested for sport, and a medicinal commodity routinely discarded, simply does not apply to the situation in Asia.

ISSUES MISSING FROM THE BILL

The one potential benefit of this bill is that it might deter some commercially-motivated bear poaching. If that is the chief aim, then bear paws should also be included in the ban. Paws are not used in TCM, but are sought after as a delicacy, and command a high price. Recent, large confiscations of shipments of bear paws on their way to China (from Russia and various countries in Southeast Asia) are evidence of the demand for this product, and potentially devastating effects on wild populations of Asian bears.

Just as with gall bladders, the trade in paws has little adverse effect on populations of American black bears. However, just as with gall bladders, there is a patchwork of state laws regarding the sale of bear paws (because most of these laws are archaic and did not recognize that this is an edible product). It is possible that some poachers kill bears principally to sell their paws. Therefore, it seems logical that if the interstate sale of gall bladders is prohibited, that paws (but not claws) be included as well.

The proposed bill includes all bear viscera, not just the gall bladder. The reason for this is unclear, as other organs have no commercial value. However, scientists are presently involved in a number of studies of these other organs. Several of these studies relate to bear

physiology during hibernation, the understanding of which may ultimately provide medical benefits to humans. Organs are shipped to the few experts across the country. It appears that this bill prohibits the import or export of all bear viscera across state lines without exception. We argue that an exemption should be made for scientific purposes, and further that any permitting for such transport by scientists should be extremely simple, as often the products need to be shipped fresh (immediately after the bear dies, often when the death is unanticipated).

WHAT IS REALLY NEEDED

We applaud the Congress of the United States for the concern over the trade in bear parts. Although our testimony demonstrates that this bill, as written, will have little or no actual effect on bear populations anywhere in the world (though it might help deter some poaching within the U.S.), we think it provides an opportunity for greater discourse about bear conservation. We thus view this as a positive step toward a more concerted effort to address this issue in a more direct way. Indeed, we hope that any publicity arising from this bill uses the opportunity to highlight the true depth of the problem, rather than credit the bill with solutions. Moreover, we hope that it generates a greater effort to find real solutions.

The situation for bears in Asia is the opposite of that in the U.S. Habitat loss in Asia continues to be a concern in many areas, although efforts are underway in some countries to reverse it. Asiatic black bear hunting is forbidden in most places, but poaching continues to be widespread, fueled largely by the demand for gall bladders and paws. The situation is complicated by the fact that bear bile has proven medicinal benefits and a 3,000-year history in TCM. The situation is further confounded by the farming of 12,000–13,000 bears in China and Vietnam, where they are milked for their bile. Chinese authorities claim that this vast production of cheap bile diminishes the demand for more expensive bile from wild bears, and thus reduces the killing of wild bears; opponents of bear farms fear that increased accessibility to farmed bear bile (now in such surpluses that it is sold in non-TCM products, such as shampoos, lotions, cosmetics, sports drinks, and toothpaste) may encourage more users.

Successes in restoring American black bears and brown (grizzly) bears of North America and parts of Europe have demonstrated that the key to bear conservation is reducing human-caused mortality and providing sufficient habitat. Thus, in Asia, reduction in the trade in bear parts, combined with habitat protection, is essential. The situation for bears in Asia is complicated by the fact that the present level of information is so poor. Increasing complaints of bears raiding cropfields gives the false perception to government authorities that populations are burgeoning, when in reality this trend likely reflects diminishing habitat quality in the adjacent forest and increasing human incursions with agriculture into the few areas of bear habitat that remain.

We believe there is time to act on behalf of Asian bear conservation in a meaningful way, and to reverse their downward slide. Below we list the top priorities:

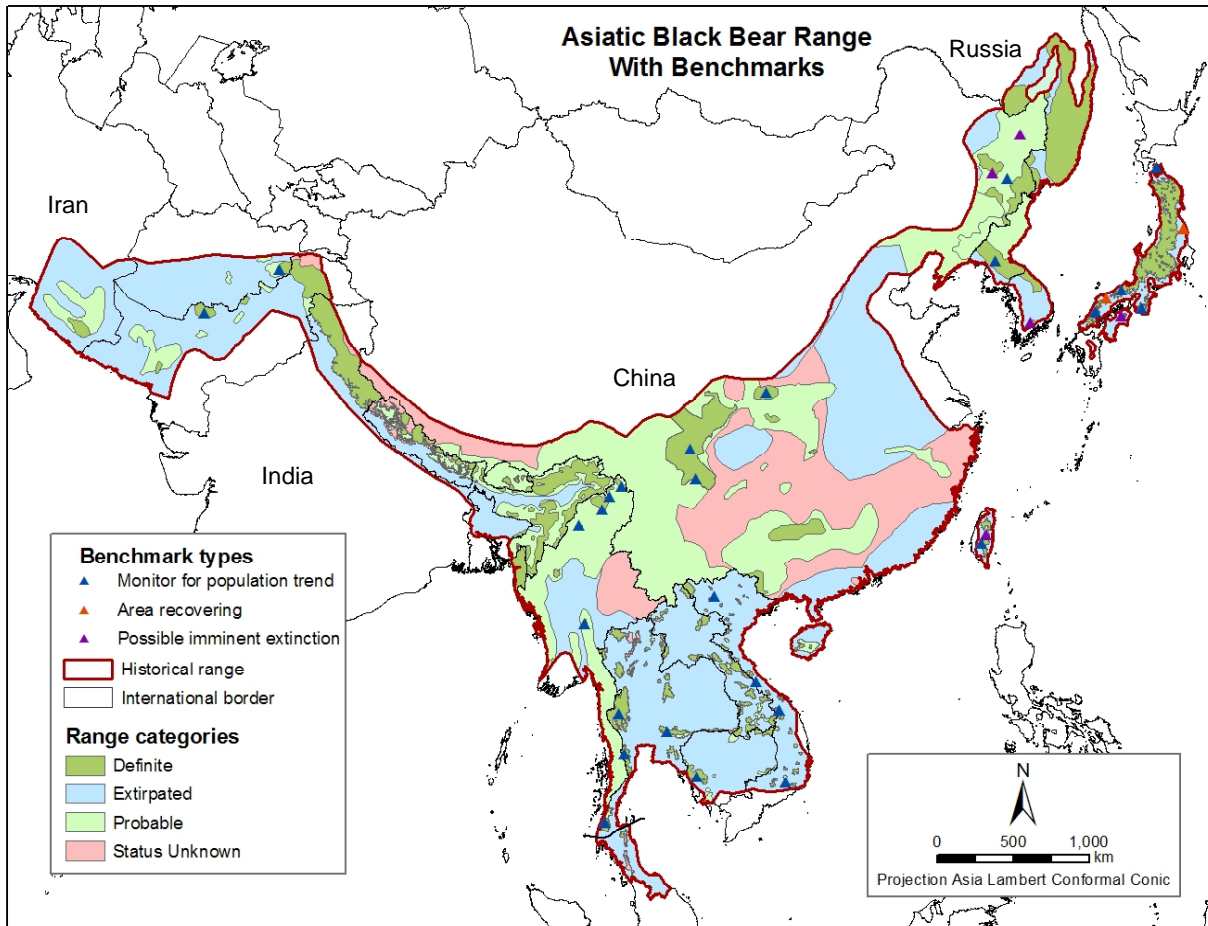
- *Survey portions of the geographic range where the continued existence of bears is unknown.* Although China comprises the largest area of range for Asiatic black bears, up to half of the assumed range in China may not even be occupied by bears (Appendix I). We recently learned that another Asian bear species, the Sloth bear, may have disappeared recently from Bangladesh; this loss was undetected by authorities because they have no knowledge of where bears actually exist. These examples demonstrate the poor state of knowledge about these species. It is not only important to know where bears exist, but also to train local biologists on how to detect bear presence, so changes in distribution can be readily ascertained.
- *Obtain information on bear population trends.* Very little data are available on population trends of any Asian bears, but with few exceptions, present evidence indicates that most populations are declining: area and quality of forested habitats are generally in decline, poaching levels remain high, and knowledgeable local people typically indicate that poaching has caused visible declines in bear numbers. One great hindrance to bear conservation, though, is the reluctance of government authorities in Asia to admit that populations are in decline. We believe that there are ways to more effectively monitor population trends, and that if government authorities were provided better data showing what are likely to be alarming declines in bear numbers, more action would be taken, and such action could be directed at the areas most in need.
- *Conduct direct, on-the ground conservation work on issues affecting bears in Asia.* We see several potential ways that Asian governments could improve conservation of bears. These include: assistance with reducing human-bear conflicts (bears raiding crops and damaging property); improved training, increased staff, and provision of better equipment for park guards and local authorities dealing with poachers; better training for patrolling staffs of nature reserves for monitoring bear occurrence and finding bear poaching activities; establishment of reserves to protect bears in key areas where populations are small and disjunct; increased CITES enforcement staff to thwart imports and exports of bear parts; and increased education about the status of Asian bears and effects of the bile trade, provided through television programs, signs, school programs, and local community activities.
- *Address the bear farming issue.* The Chinese government asserts that bile produced on bear farms reduces the demand for wild bile, and hence the impetus to poach wild bears. The counter-argument is that this large quantity of relatively cheap bile and the active promotion and marketing of the sale of this bile entices more users, with some ultimately desiring and being able to afford wild bile. A rigorous study is needed to resolve this important debate, because if the latter, counter-argument were correct, it would provide a conservation rationale (not just an animal welfare rationale) for closing these farms. Meanwhile, thousands of bears reside on farms, many in inhumane conditions. A non-governmental organization has raised funds to house a few hundred bears that have been removed from some of the worst farms. Vietnamese and Chinese authorities are willing to remove thousands more, but large captive facilities are needed to house them (because these bears would be incapable of surviving in the wild).

The scope of these issues is massive, and the funding needed to address them is also therefore large. Professional organizations like ours, and other conservation organizations, have not been able to raise sufficient funds to have much of an effect. For example, the International Association for Bear Research and Management is only able to provide small annual grants, averaging ~\$5,000 each, for about 10–12 bear research and conservation projects worldwide. An order of magnitude larger source of funding is needed, such as that provided by the Multinational Species Conservation Funds. These funds, allocated for the conservation of African and Asian elephants, rhinos, tigers, great apes, and marine turtles, have been tremendously effective in reversing dire conditions for these imperiled species.

Obviously there is a need for more funding for conservation for a host of other varied taxa, of which bears are just one. We restrict our argument that bears should be a priority for such funding to the simple point that Congress has overtly acknowledged this priority through deliberation of the Bear Protection Act. If the passage of that bill is to stand as an initial small step toward worldwide bear conservation action administered by the U.S. government, and does so mainly by increasing awareness of the looming issue of the gall bladder trade, then the next, crucial step is increased funding directed at the real issues, which occur in Asia.

Our endorsement of the present bill is thus predicated on follow-up action, specifically increased funding to address the pressing conservation issues in Asia that result from the trade in bear parts. If Congress only goes as far as to pass the present legislation, thereby restricting the small-scale legal trade in gall bladders within the U.S., then little real bear conservation will be accomplished.

Thank you for this opportunity to provide comments and to hopefully forge a fruitful path toward effective conservation of the world's bears. I welcome further discussion on any of these issues (dave.garshelis@dnr.state.mn.us; 218-327-4146).



Appendix I. Range map for Asiatic black bears produced by the IUCN Bear Specialist Group, 2007. The species has been extirpated from large areas of the former range, and in other large regions the presence of bears remains unknown due to lack of reliable information.



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Appendix II. An Asiatic black bear cub killed for its gall bladder in a market in Myanmar in 2006. This species is fully protected under Myanmar law, but situations like this occur quite openly there and across much of Asia, even though it is strictly illegal.