

Dead or Alive: Prohibition against possession of “Taklobos” By: Joanna Karla P. Guilonsod

News of giant pearls surfaced during the previous years brought about by segment features in various known local television shows. These said wonders appear to be associated or derived from giant clams – polished and cleaned, resulting to an appearance of that of a giant pearl. These accounts of giant pearl discoveries had spark immense interest in people, with its speculated enormous monetary value, resulting to several incidents of Giant clam possession and transportation throughout the Philippines – an act in clear violation of the Republic Act 8550, as amended by Republic Act 10654, and Republic Act 9147.

Being primarily identified as *tridacna gigas*, or locally known as “taklobos”, these giant clams are considered as “endangered” in accordance with Fisheries Administrative Order (FAO) No. 208, Series of 2001, that provided a list of rare, threatened and endangered fishery species. Considered as such, giant clams fall under Convention on the International Trade in Endangered Species of the Wild Flora and Fauna (CITES) Appendix II, which implies that the species listed are not necessarily threatened but in which trade must be controlled in order to avoid utilization incompatible with their survival.¹

CITES is a system, comprising of three appendices, that aims to regulate international trade in specimens of selected species. This regulation can be done through a licensing system in terms of all import, export, re-export and introduction from the sea of species covered by the Convention.²

With this classification, possession of any species under CITES Appendix II will be considered as a violation of Section 102 (b) of RA 8550 as amended by RA 10654, which provides that:

Section 102. Fishing or Taking of Rare, Threatened or Endangered Species. –

(a) xxxx

(b) It shall be unlawful to fish, take, catch, gather, sell, purchase, possess, transport, export, forward or ship out aquatic species listed in CITES Appendices II and III if scientific assessments show that population of the species in the wild cannot remain viable under pressure of collection and trade: Provided, That the taking or fishing of these species from the wild for scientific research, or conservation breeding simultaneous with commercial breeding may be allowed.

Violators can be made liable either administratively or judicially, or both. Administrative liability has a corresponding penalty of fine equivalent to Three times the value of the species or Three Hundred Thousand Pesos (Php 300,000.00) to Three Million Pesos (Php 3,000,000.00), whichever is higher, and forfeiture of the species.³ On the other hand, conviction by a court of law would result to a penalty of imprisonment of five (5) to eight (8) years and a fine equivalent to twice the administrative fine and forfeiture of the species.⁴

In observing the language of the law, it is clear that the mere act of “*fish, take, catch, gather, sell, purchase, possess, transport, export, forward or ship out aquatic species listed in CITES Appendices II and III*” is considered a violation. The quantity of aquatic species caught in possession of the violator is irrelevant. On the other hand, the law did not specify whether the said provision is applicable only to the living giant clams. As the law does not distinguish, so does we. With this, the above-cited provision is applicable to both living and dead giant clams.

¹ Convention on the International Trade in Endangered Species of the Wild Flora and Fauna. “How CITES works”.[cites.org. https://www.cites.org/eng/disc/how.php](https://www.cites.org/eng/disc/how.php) (accessed May 10, 2019).

² *Ibid.*

³ Paragraph 2, Section 102 (b) of RA 8550 as amended by RA 10654.

⁴ Paragraph 3, Section 102 (b) of RA 8550 as amended by RA 10654.

Aside from that, the said action is also deemed as violation of Section 27 (f) of Republic Act 9147 or the "Wildlife Conservation and Protection Act, which provides that:

Section 27. Illegal Acts. - Unless otherwise allowed in accordance with this Act, it shall be unlawful for any person to willfully and knowingly exploit wildlife resources and their habitats, or undertake the following acts;

(f) collecting, hunting or possessing wildlife, their by-products and derivatives;

The violation of the abovementioned provision is punishable under Section 28 (b) of the same law which imposes a penalty of imprisonment of one (1) year and one (1) day to two (2) years and a fine of Twenty thousand pesos (P20,000.00) to Two hundred thousand pesos (P200,000.00) if illegal acts are inflicted or undertaken against endangered species.

Emphasis must be made on the phrase "their by-products and derivates" which denotes that the violation of this provision can be undertaken no matter what state or form the subject wildlife resources or species may be in. This would entail that even if the said fishery specie, such as the giant clam, was cut into smaller pieces or altered its form through polishing, any act of exploitation is still considered as violation of the above-cited law.

Nonetheless, more than the observance of the law, the prohibition against the possession of giant clams must be vigilantly upheld in order to safeguard the welfare of the said fishery specie. Continuous abuse and exploitation of these endangered fishery species will be greatly detrimental to the overall marine ecosystem of our country and will eventually affect the environmental quality of future generations.