

The Legal Framework Of Whale Watching Activities In The Indian Ocean: Evaluating The Most Effective Tools To Mitigate Whale-watching Abuse

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Background

From June to October, humpback whales migrate from Antarctica to breed and give birth in the South-West Indian Ocean (SWIO). The occurrence of humpback whales in this region during the austral winter has led to an increase in tourism in the area for whale-watching activities.

Method

In the SWIO, many legal tools are used to frame whale watching activities, including swimming with whales. From one State to another, and even among the French overseas territories, the legal framework of whale-watching activities is fragmented and inconsistent. Various management tools exist stemming from national laws or « hard law » like the prohibition of swimming with whales, approach distances, time closures, but many non legally binding tools or « soft law » are also implemented like voluntary codes of conduct, labelling or certificate schemes.

Results

The legal frameworks of whale-watching activities result either from a top down approach (governments) or a bottom up approach (the public process on the ground). This study aims to compare the different whale-watching management tools in the SWIO and assess compliance level in order to determine the most effective legal instrument to mitigate whale-watching abuse of humpback whales.

Conclusion

Results can be surprising as binding instruments are not often effective if they are too strict and not accompanied by means of control compared to voluntary self-regulation, which can play a key role in areas not covered by a national law.