

WILDLIFE PROTECTION LAWS IN INDIA – ARE THEY ADEQUATE?

Siddhant Nayak*

ABSTRACT

India has a wide variety of wildlife. Wildlife is any plant, animal, insect, or other creature that is typically found in a forest. According to Valmik Thapar, India had 65,000 species of fauna, including fish, birds, and mammals, and 13,000 species of flowering plants in 1997. The 22nd of April is designated as Earth Day every year. The 51st Earth Day was observed worldwide this year with the theme of "Restoring our Earth." India also observed this day. But during the very same year, the news was also reported about how poaching of wildlife animals increased while India was under lockdown. Because it demonstrates how disconnected we are from Mother Earth, this makes the theme incredibly realistic. The Indian Forest Act, of 1927 was passed in India in an effort to save the country's wildlife. In protected and reserved forests, hunting was prohibited. The British had previously passed the Wild Birds Protection Act in 1887 to protect wild birds. Every Indian citizen is required by the Indian Constitution's Article 51-A (g) to preserve and improve the nation's wildlife. In this research article, we analyze the viability of India's wildlife protection laws, their goals, and some of the most significant cases involving these laws. We'll also examine whether or not this act guarantees the safety of human lives or provides them with compensation.

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Keywords: Wildlife, Constitution, Protection Laws, Citizen, Democracy, Compensation.

CONCEPTUALIZATION

Wildlife – Wildlife refers to living organisms existing on the planet without human intervention.

Constitution – Set of guidelines through which a country is governed.

Protection Laws – Laws that are made to protect certain living organisms.

Citizen – A legally recognized person of a nation.

*BA LLB, KIIT UNIVERSITY, BHUBANESWAR.

Democracy – Government formed through the majority of its members.

Compensation – Monetary awards are given to a person/organization who has suffered a loss.

LITERATURE REVIEW

Many endangered species including wild Buffalo, elephants, tigers, lions, leopards, and livestock are seriously threatened by man's interactions with wild animals. Because laws are made by humans wild animal rights frequently take a back seat. The Wildlife protection act of 1972 includes compensation provisions that will aid people who are attacked by wild animals. Ecotourism can support the local population, safeguard forests, wildlife, and farm owners, as well as make up for the financial losses suffered by conventional farming. Through community nature conservancy, guidelines are being released to promote ecotourism and environmental conservation initiatives.¹

OBJECTIVES

1. To study the Wildlife Protection Act, of 1972
2. Are Wildlife Protection Act adequate in India?
3. To see what actions are allowed and prohibited by the Wildlife Protection Act, of 1972.
4. Leading academic cases that contributed to the adoption of wildlife laws in India.

METHODOLOGY

The current study was written by using Primary and Secondary sources like books, research articles, newspaper articles, online sources, etc. In this study, both descriptive and analytical techniques were used.

FINDING AND ANALYSIS

Most of us go to zoos and circuses, eat meat, and dress in leather. There are many of us who purchase pets like dogs and birds and keep them caged. Humans are used to eating chicken burgers, wearing wool and silk, and engaging in activities related to fishing. However, we never take into account how these actions will affect animals. According to Peter Singer in his book, the fundamental principle of equality calls for equal consideration but not equal or identical

¹ G. Vyralakshmi & R. Dhivya, A CRITICAL STUDY ON WILDLIFE (PROTECTION) ACT, 1972 WITH SPECIAL REFERENCE TO COMPENSATION, Volume 120, International Journal of Pure and Applied Mathematics, 2018.

treatment. Regarding animal rights, the distinction is especially important. Animals ought to be spared pain and exploitation. Additionally, they are capable of “*feeling joy, pain, fear, frustration, loneliness, and maternal love*”. Most animal rights advocates believe that animals have inherent value. Understanding that animal freedom is more than merely a concept that challenges the commonly held societal myth that animals live primarily for human use is essential. The only thing that allows us to deny others the same rights we have taken for granted for selves is prejudice. Whether prejudice is motivated by considerations of “race, gender, sexual orientation, or species”, it is seen as morally evil. It would be illogical to “Eat a pig if you would not eat a dog”, for example. Both pigs and dogs are capable of experiencing pain in a similar way. Because of bias based on species, we might view one animal as our buddy and the other as our dinner. The conservation and preservation of wildlife in India is governed by “*The Wildlife (Protection) Act, 1972*”. The Act is a by-product of the period when judicial activism significantly influenced the quick evolution of Indian environmental legislation. Several prior statutes, like “*The 1912 Wild Birds and Animals Protection Act*”, were also judged inadequate at the time the Act was passed. The present Act is comprehensive and closes all the loopholes introduced by the preceding statutes. Yet there are still a lot of big holes in the present judicial system. There is a gap between the theoretical legislation and its real application. The bureaucratic intervention has also damaged the intent of the Act. In accordance with the decision in “*Animal Welfare Board of India v. Nagaraja and Ors*,”² animals too have rights and integrity, and these characteristics cannot be taken away from them without justification. Actions that infringe on an animal's rights or safety must be stopped, the court said. As a result, people other than humans are now considered to have the right to dignity. The Kerala High Court took steps suo motu in another case “*Bruno v. Union of India*”³ in protest at the lack of administrative and statutory measures for the protection of animals in reaction to reports of the violent execution of a “*Labrador dog*” in Thiruvananthapuram. Bruno was cruelly killed by three males on Adimalathura beach, close outside Trivandrum, by hitting it constantly with a hefty stick until it looked to be dead. The Kerala High Court made a number of orders in the matter. The new title was “*In re Bruno*”. Justices Nambiar and Gopinath P., who made up the two-judge panel, described it as a befitting tribute to the helpless dog who perished as a result of human cruelty. Humans abuse animals in a number of different ways. “*Dogs, cats, horses, and cattle*” are the species most frequently the victims of acts of animal

² *Animal Welfare Board of India v. Nagaraja and Ors*, (2014) 7 SCC 547

³ *Bruno v. Union of India* (2008) 17 SCC 55

cruelty. “*Experimentation, dogfighting, hoarding, genetic engineering, puppy mills, circuses, animal smuggling, and animal sexual harassment*” are a few examples of how animals are harmed. Non-human animals are used in labs by researchers to carry out tests, experiments, and studies on a range of biological issues. Animals are also utilized in cosmetics, food, medicine, and other testing in conjunction with medical tests. In South Asia, India has outlawed the use of animals in cosmetics testing, but despite attempts to end it, animals are still used in drug testing. To eliminate animal drug experimentation and implement alternatives, new legislation and adjustments to existing regulations are required. Animals made by genetic engineering to serve human needs lack a right to life and have a higher risk of contracting infectious illnesses. “*The Environment (Protection) Act, 1986*” controls chemically engineered organisms and their products but does not prohibit animal cruelty brought on by genetic modification in India. The Performing Animals (Registration) Regulations, 2001 noticed under “*The Prevention of Cruelty to Animals Act, 1960*” also apply to circuses. According to the Kerala High Court and the Wildlife Protection Act of 1972, performing with wild creatures including “lions, bears, tigers, panthers, monkeys, and tigers” is prohibited. The Supreme Court of India forbade the unlawful smuggling of cattle to Nepal for the Gadhimai festival as illicit animal trading and smuggling expanded. Sexual harassment was decriminalized under Section 377 of the Indian Penal Code, but this adversely impacted animal rights. These were the various atrocities and important legal precedents. In another case “*Tarun Bharat Sangh, Alwar v. Union of India & Ors*”⁴, in the State of Rajasthan, a region designated as a tiger reserve was the subject of this case involving illegal mining. A non-profit organization filed the petition in an effort to put an end to the activity for the sake of the environment, the rule of law, and ecology. The Court formed a committee to guarantee adequate adherence to the numerous Acts and Notices issued in relation to the protected area. The court emphasized that the goal of this case was to verify that the laws imposed to preserve the native ecosystem and surroundings were being obeyed, not to terminate an operation that was being done legitimately. Seeing that no mining license could have been given or extended within the woods without Central Government clearance, the Assembly and Parliament reached the decision that the mining operation was unlawful and had to halt. We'll now look at a number of laws designed to protect animal rights. In spite of the Wildlife Act's prohibition against it, the harm that legal wildlife trade and commerce has done to the environment was highlighted in “*Sansar Chand v. State of Rajasthan*

⁴ Tarun Bharat Sangh, Alwar v. Union of India & Ors, 1993 SCC Supl. (3) 115

(2010) ”⁵. These orchestrated crimes are worldwide since it seems that no trade is going place within India, but the same items are illegally trafficked outside of India to meet the needs of various nations, such as tiger hunting for the Chinese medicinal business. The validity of Sections 9 and 11 was disputed in "*Mahaveer Nath v. UOI (2019)*"⁶ on the basis that the petitioner's right to sustenance was violated by the limitations outlined in those Sections. Except on days when snakes are revered, the petitioner, a representative of the Nath/Sapera group, is not allowed to make a living by enticing snakes. In order to emphasize the essential function that this organization performs in educating people about reptiles, the phrase "barefoot conservative educators" was chosen. The petition was opposed on the grounds that Section 9's ban on keeping snakes "Violated Article 19(1)(g) and Article 21 of the Constitution's basic rights to commerce. The Court emphasized that while Article 19(1)(g) is a qualified right, it may be subjected to reasonable limits for the welfare of the general public. The court reaffirmed in "*Balram Kumawat v. UOI (2003)*"⁷ that the act totally outlaws the sale of "Ivory from African elephants" and that there is no reason to believe that it breaches "*Article 14 or Article 19(1)(g)*" as the prohibition is a reasonable limitation under Article 19. (2).

The following acts have been made by the government to prevent the extinction of wildlife "*The Prevention of Cruelty Act, 1960 and Draft Animal Welfare Act, 2011*". Under this Act, a number of regulations have been passed to control all facets of animals such as "*Draught and Pack Animals Rules, 1965, Performing Animals Rules, 1973, Transport of Animals Rules, 1978, Slaughter House Rules, 2001, Animal Birth Control (Dog) Rules, 2001*".

Animals living in India today also have certain rights that are guaranteed by the laws in place such as:

1. Right to Life (Article 21 of the Indian Constitution)
2. Rights of Preservation (Article 48 of the Indian Constitution)
3. Right of Compassion (Under Article 51A (g))
4. No animal may be put to death in violation of Rule 3 of the 2001 "Prevention of Cruelty to Animals Regulations".

⁵ Sansar Chand v. State of Rajasthan, 2010 (10) SCC 604

⁶ Mahaveer Nath vs Union of India, [1960] 3 SCR 528

⁷ Balram Kumawat vs Union Of India & Ors, AIR2003SC3240

5. According to "The Animal Birth Control (Dogs) Regulations, 2001," no one other than the authorized authorities may catch or remove strays who have had surgical sterilization for contraception.
6. According to "Section 11(1)(h) of the Prevention of Cruelty to Animals Act, 1960", the right to enough food, water, and shelter
7. The status of apes as a unique species
8. Animal testing is not permitted for cosmetics
9. "The Wildlife Protection Act, 1972", Section 9 provides a right of protection from hunting
10. The Indian Criminal Code's "Sections 428 and 429" provide the right against damage and mischief
11. According to "Section 11(1)(c) of the Prevention of Cruelty to Animals Act, 1960", no animal shall be given toxic food or medicines.
12. "The Prevention of Cruelty to Animals Act of 1960's" Section 22 prohibits the use of animals for amusement in displays.

RECOMMENDATIONS AND SUGGESTIONS

We'll now consider how to strengthen the Wildlife Preservation Act in order to better protect the ecosystem. The issue of unlawful hunting and trafficking still exists in many regions of India, as evidenced by the importation of *"Ivory tusks in Karnataka and Odisha"*. According to the wildlife trade tracking network of *"The World Wide Fund ('WWF')"* for Nature, demand for wildlife rose twice during the shutdown as people resorted to the traffic of wildlife as an alternative to conventional forms of income. Likewise, the desire for meat increased. Due to a worrisome increase in scale and flesh captures, the pangolin may become endangered in regions like "Karnataka, Andhra Pradesh, and Jharkhand". The usage of animal skins has traditionally put wildlife in India in jeopardy. During the lockdown, a lot of individuals began trading, which raised the demand for exotic skins like leopard skin. The leopard pelt and other body parts were confiscated in "Jammu by the Wild Life Protection Agency". Leopards are protected under *"Schedule I of the Wild Life Protection Act"*. Recently, authorities in three distinct districts of Odisha confiscated more than 10 leopard skins. In the last year, more than 26 leopards had been taken. In the past ten years, 150 leopards are been chased and poached in Odisha, and their pelt and bones have been traded on the world market for cash. Moreover, the Act's objective is violated by the government's recent approval of the Char Dham project. The

Act does not apply to India's obligations under the "*Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)*". To guarantee that wildlife species' existence is not in jeopardy, the international CITES agreement regulates the trade in such species. A government decision giving amnesty to owners of exotic living forms classed as CITES-protected was also enacted on June 11, 2020. Exotic living species are defined under CITES as creatures or plants that are relocated from their home habitat to a new one. Since then, the smuggling of exotic living species has dramatically increased. According to the "Smuggling in India Report 2019–2020", there has been a discernible rise in the entry of exotic and threatened species of wildlife. This is unfortunate. In India, aquatic fish varieties are also disappearing at a rapid rate. Extreme levels of pollution in water bodies, the construction of dams, and other projects without consulting wildlife specialists are the major causes of their decrease. In addition, the legislation hasn't been revised to reflect concerns about climate change as well as the fast-increasing sea levels in India and the Bangladeshi region of the Sundarbans. The act was intended to promote sustainable development by addressing the requirements of the current generation without endangering those of the next, but the results have not been very consistent, especially in the late years when the government has drastically changed its emphasis to forceful development. This notion is also supported by current legislation and recent government policies. For instance, the "Land Acquisition Act of 1894" grants the assessor the same power to acquire property. The government is allowed to purchase land in emergency circumstances without performing the required social effect evaluations under "*The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act of 2013*", a legislation that has been modified. A number of infrastructure projects have also been authorized by the national wildlife board, including the expansion of the railway through the Mollem National Park and Bhagwan Mahavir Wildlife Sanctuary in Goa, as well as a railway route "*through the Kawal Tiger Corridor in Telangana*". The Supreme Court gave the administration harsh feedback for allowing the railway enlargement in Goa. According to "*The Central Empowered Committee of the Court*", which was created to determine whether or not the approval should be given, the region has a delicate ecosystem. Additionally, the railway's growth will demolish it. Bureaucratic meddling is the primary reason for these species clearances without a thorough environmental effect evaluation.

CONCLUSION

The Act is comprehensive and covers almost every element of maintaining and safeguarding animals. The fact that the law allows for the establishment of a broad variety of groups and organizations that would wield power with specific goals in mind, like the Tiger protection authority, demonstrates the law's thoroughness. It also allows for the delegation of power. Such a distribution of authority, however, can occasionally bring up the problem of responsibility due to the dispersed nature of the powers. Due to the increased risk of the act's monitoring failing, having too many groups and agencies frequently dilutes the act's intended purpose. The legislative branch and the judicial branch have worked together to protect wildlife and have issued rulings that highlight their importance. The judiciary suggested the creation of "*environmental courts*" on a regional basis due to the rise in cases involving "*environmental pollution, ecological destruction, and conflicts over natural resources*". This suggestion has resulted in the creation of a new "environment jurisprudence". These initiatives have demonstrated that the judiciary has increased both public awareness of environmental issues and the urgency with which the executive must address any specific environmental issue. To add to that since it is the responsibility of the forest department authorities to improve wildlife protection and protect human life, the Wildlife Protection Act, of 1972, should be amended to include a compensation clause for attacks by wild animals. The victims and the affected party's family will gain from this. It is crucial to emphasize the significance the state government places on the victims' compensation.

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