



# Role of the Judiciary in the Conservation of Wildlife in India

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## Abstract

In this paper, we have shifted focus on the role of the judiciary in conserving wildlife, particularly focusing on the Indian judiciary. Beginning with an exploration of the legislative framework governing wildlife conservation, it navigates through the realm of judicial activism in addressing issues such as wildlife trafficking, poaching, and cruelty to animals. The paper scrutinises the efficacy of DNA and forensic technologies, alongside the invaluable contribution of sniffer dogs in combatting illegal wildlife trade. It assesses the existing legal provisions for wildlife protection in India, advocating for potential legislative amendments. Through case studies and jurisprudential analysis, it examines the evolving concept of animal rights, including the intriguing question of whether animals can be recognized as juristic persons. Additionally, it talks about the intersection between humanism and animalism within constitutional paradigms. The paper underscores India's commitment to international treaties and conventions for wildlife conservation, while also highlighting the pivotal role played by specialized tribunals and NGOs. Ultimately, we have tried to interpret the essence of the dynamic and evolving jurisprudence in safeguarding wildlife and ecosystems for future generations.

## Overview of Wildlife Protection Act, 1972:

The religious and cultural traditions place a high value on animals. The treatment of animals, particularly several endangered species, is far from ideal. The Elephant Preservation Act of 1879 and the Wild Birds Protection Act of 1887 were the first laws in India to preserve wild animals. It is well known that protecting wildlife is crucial to the existence of humankind as well as other species. Long after independence, environmental concerns about the flora and fauna came to light due to the growing loss of animals.<sup>3</sup>

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<sup>3</sup> "Environmental legislation", The Statesman, 19 January 2017

The Indian Constitution established the division of powers between the central and state governments. Initially, wildlife was a state subject, and the Parliament lacked the constitutional authority to enact laws concerning wildlife unless the legislatures of two or more states passed a resolution by Article 252, which gave the Parliament the authority to enact the necessary legislation. The Hailey National Park Act, of 1936, which created the Hailey (now Corbett) National Park in the State of Uttar Pradesh, may have been the first comprehensive law for the preservation of wildlife and its environment.

The majority of the first legislation was primarily designed to protect game animals for use in hunting. Restrictions in reserved or protected forests were introduced in the Indian Forest Act of 1927, which also approved the creation of sanctuaries. Legislation should be enacted to save endangered species, and poachers who hunt them for their benefit as well as hunters who engage in unlawful and pointless deaths should face harsh penalties. The Wildlife Protection Act was most likely passed by India first.<sup>4</sup>

"Protection of Wild Birds and Wild Animals" was ranked No. 20 on the State List by the Constituent Assembly in the Draft Constitution after independence, and state legislatures were granted the authority to enact laws.<sup>5</sup>

The 42nd Amendment Act of 1976 eventually moved it to the Concurrent List. By adding the topics "protection of wild animals" and "forests" along with "birds" to the Concurrent List, it has granted the centre more authority. Several measures have been taken nationwide through the passing of several Wildlife Acts in recognition of the value of wildlife resources and to stop their decline.

### **Landmark cases that have shaped wildlife conservation policies**

#### **1. Chief Forest Conservator (Wildlife) v. Nisar Khan, 2003<sup>6</sup>**

The appellant in this case was a bird dealer dealing in birds that were common in the state of Uttar Pradesh, such as buntings, parakeets, mainas, and munias. A state government licence to operate his firm was given to him, and it was good until 1990. He applied to the licencing authority after the term ended to renew the licence for an additional year, but the licence was denied because he couldn't continue his business of captive bird breeding without hunting, which includes bird trapping. Respondent filed a writ case at the Supreme Court, arguing that the decision violated his fundamental right to trade or commerce, as guaranteed by Article 19.

<sup>4</sup> Indira Gandhi Conservation Monitoring Centre (IGCMC), New Delhi and the United Nations Environmental Programme (UNEP), World Conservation Monitoring Centre, Cambridge, UK. 2001. Biodiversity profile for India

<sup>5</sup> Entry 17B, Schedule VU, The constitution of India.

<sup>6</sup> Chief Forest Conservator (Wildlife) v. Nisar Khan, 2003 SCC OnLine SC 240

The ruling of the Supreme Court declared:

The Wildlife Protection Act, 1972's Sections 9 and 2(16) forbid breeding birds in captivity through the capture of birds, hence the licencing body has correctly declined to renew the licence.

The appellant's argument that his actions violated his basic rights was rejected because Article 19 forbids him from operating any company if it endangers public order or is determined to be unlawful by the law

## **2. Consumer Education and Research Society, Ahmedabad v. Union of India, 2000<sup>7</sup>**

In this particular case, the Gujarati government, acting under Section 18 of the Act, designated a portion of the forest area in the Lakhpat Taluka of Kutch as a "wildlife sanctuary" called Narayan Sarovar Chinkara Sanctuary. The state government then published a notification designating 94.87 square kilometres of land as part of the aforementioned reserve forest.

The state administration revoked the notices when the petitioner raised objections to them. The state government did the following:

- The size of the sanctuary was determined to be larger than necessary, and the state government decided to delimit it. This decision was likely to be beneficial in methodically developing the region economically by utilising its mineral richness.
- It inspired the state assembly to adopt a suitable resolution in support of such. In an exercise of its authority under Section 26A(3) of the Act, the state legislature enacted a resolution lowering the statutory limit.
- After the government sent out a notification to that effect, the petitioner again contested it, claiming that there wasn't enough space to safeguard the animals.

The High Court:

- The High Court dismissed the petition and said that the 1200 chinkaras should be preserved inside the 444.23 sq. km. territory, as the state legislature was well aware of the mammals.

It was also maintained that the region's economic growth will probably support the local populace as a whole as well as contribute to the preservation, development, and conservation of the local flora and wildlife.

<sup>7</sup> Consumer Education and Research Society, Ahmedabad v. Union of India, 2000 SCC OnLine SC 407

The Petitioner challenged the decision of the High Court on the following grounds:

- The state authorities believed incorrectly that the contested notification was meant to safeguard the local chinkara population.
- It was released to preserve the ecological balance and safeguard the ecology.
- The resolution was enacted by the state legislature only based on the state government's judgement, not using its intelligence to acquire all the pertinent data.
- It was brought to the legislature's attention that a sizable number of trees on the site that was leased to establish a cement plant had not been disclosed.

The ruling of the Supreme Court declared:

- When the state legislature has formally determined that the decision was made after a competent analysis of the facts, it would not be appropriate to nullify their resolution. The statement indicated that the state legislature, not the state administration, was responsible for deciding whether to reduce the area. It is fallacious to contest the authority and functions of the state legislature, which is composed of intellectuals and representatives who are well aware of the local communities and how to safeguard them.
- Even though the state legislature acted hurriedly and without carefully weighing all the available information when passing the resolution, it would not be wise to overturn their choice unless there is substantial evidence to suggest that their choice will negatively impact the environment and wildlife.
- According to the court, there are a lot of trees in the notified area despite it being an edaphic thorn forest. The Forest Committee has designated it as a candidate location for classification as a biosphere reserve, but it has also noted that the region is backward and that industrial development is not possible there.

### 3. Naveen Raheja v. Union of India, 2001<sup>8</sup>

Under Article 32 of the Indian Constitution, wildlife enthusiast Naveen Raheja filed a public interest lawsuit in this case, citing the dangers facing the captive tigers in the Bhubaneswar Zoo and the horrific event of the tigress being skinned alive at the Nehru Zoological Park in Hyderabad. Concerns about the treatment of animals in zoos and designated forests were brought up by him. The Supreme Court was haunted by the horrific behaviour that the humans engaged in, causing the animals to suffer excruciatingly.

<sup>8</sup> Naveen Raheja v. Union of India [(2001) 9 SCC 762].

The ruling of the Supreme Court declared:

- The tiger should have been protected by the zoo's administrators, but they failed to do so and the animal was left vulnerable to abuse while it was kept there.
- Animal cruelty cannot occur when helpless, voiceless creatures are handled in such a terrible way. If it is, the Prevention of Cruelty to Animals Act, of 1960, will apply and it will have consequences.
- The state must take the necessary actions, as ordered by the court, to ensure that such an incident never happens in restricted forests or zoos.

#### 4. **Rural Litigation and Entitlement Kendra v. U.P. State:**<sup>9</sup>

The Doon Valley case, which is a PIL, is a noteworthy case. Excessive mining in mountainous terrain led to the commencement of the conflict. In this case, RLEK and a group of locals petitioned the Supreme Court to halt the progressive mining that was destroying the Mussoorie forest cover and trees, as well as hastening soil erosion that resulted in landslides and obstructions of groundwater. The Court mandated the closure of all mines and the reforestation of the valley.

#### 5. **Vellore Citizens Welfare Forum v. Union of India and Ors, 1996**<sup>10</sup>:

This case is regarding several tanneries in the state of Tamil Nadu, there was a disagreement in the current case. These tanneries were contaminating the Palar River, which was the main supply of potable water. The establishment of a panel with full authority to handle the problem was authorised by the Supreme Court. To strike a balance between environmental preservation and development, the Supreme Court reviewed the report before making its ruling. The Court recognised that these Indian tanneries employ thousands of people and are the primary source of foreign exchange for the nation. All people are in danger of health problems, and the ecology is destroyed.

Following the court's decision in favour of the petitioners, all tanneries were mandated to pay a fine of Rs. 10,000 to the collector's office. In addition, the government of Tamil Nadu was directed by the court to award Mr M.C.

<sup>9</sup>Rural Litigation and Entitlement Kendra v. U.P. State AIR 1985 SC 652

<sup>10</sup> Vellore Citizens Welfare Forum v. Union of India and Ors, AIR 1996 SC 2715

Mehta with a prize of Rs. 50,000 for his environmental protection efforts. The court in this instance also highlights the Green Benches Constitution of India, which focuses particularly on matters related to environmental conservation and expeditious and effective resolution of environmental disputes.

### **Illegal Trading of Wildlife in India: Case Studies**

The illegal online trade of wildlife parts is becoming increasingly common. In Meerut, a suspect was recently caught attempting to sell an albino civet cat to a tourist through a social networking chat room. The suspect was arrested by undercover police officers the following day when he went to deliver the cat.

During the investigation, the police were shocked to find price lists and photographs of various Indian birds, including sunbirds, peregrine falcons, and peacocks, in the emails sent and received by the arrested individual. In addition, the email history of the suspect revealed that they had internet banking details for swift payments and various shipping methods for convenient delivery. It was surprising to see such a well-organized system in place for illegal trading.

It appears that there is a highly efficient network of individuals involved in this illegal trade. Pet store owners work with sellers and traders who use the internet to reach their clients. These pet store owners sell exotic animals to traders at exorbitant prices, allowing them to make huge profits.

Wildlife trafficking is a global operation that involves the illegal trade of various animals including mammals, insects, and reptiles. These animals are usually kept in safe environments to protect them from harm. For example, a King Cobra may be kept in a vivarium that closely mimics its natural habitat for research and observation. However, illegal traders then proceed to sell these creatures at extremely high prices.

Wildlife investigators face a significant challenge due to the differing legal statuses of wild animals in different countries. For instance, the star tortoise is protected under India's Wildlife (Protection) Act, 1972, but lacks protection in many other countries where it is freely and legally traded. This discrepancy leads to the smuggling of thousands of star tortoises from India each year, which often results in their death due to hazardous transportation methods used by traffickers who ignore the animals' welfare. Once the tortoises reach their destination, they are usually placed in captive-breeding facilities, falsely labelled as "captive-bred," and sold through the illegal wildlife trade network. The absence of a reliable method to distinguish between captive-bred and wild animals enables perpetrators to avoid detection.

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) aims to regulate the trade of wildlife, but it doesn't protect all species. Some countries issue permits for the legal sale of a limited

number of wild animals each year. This creates loopholes that illegal traders can exploit to either legitimize their trade or operate without being detected.

*“Several traders are selling restricted exotic wildlife in India. There is also a big market out there, especially in the metropolitan cities where buyers can afford such expensive pets, for many of whom owning an exotic animal or bird becomes a matter of pride and a status symbol. Earlier, an Alexandrian parakeet (*Psittacula euphoria*) or a hill mynah (*Gracula religiosa*) were kept as pets, but now we have youngsters who want to keep a snake or a spider as pets at home – cultural boundaries are also fast vanishing in this age of computers,”* says veteran expert on wildlife trade control in India, Ashok Kumar, Founder Director of TRAFFIC India and the Chairman of Wildlife Trust of India. Ghost banking, tax evasion, arms and narcotics trafficking are some of the associated crimes of illegal wildlife trade.

The illegal trade of pets is a significant threat as it can spread diseases across the world. Unfortunately, many safety methods and precautions are not followed while transporting animals, leading to unhygienic conditions. Transport carriers and holding areas are rarely disinfected, making these animals carriers of diseases and harmful germs.

The illegal pet trade is a global issue that affects countries like Pakistan, Dubai, and Bangladesh. Recently, a trader in the Kolkata market disclosed that two pairs of exotic chimpanzees were sold to a wealthy and influential client in Dubai, United Arab Emirates. The client bought the chimpanzees as a decorative addition to their farmhouse.

The illegal pet trade in India highlights the need for monitoring and reducing demand. The government, civic authorities, and citizens must act to keep wildlife in their natural habitat, not treat them as objects for sale.

### **Illegal Trading of Birds in India: Case Studies**

A tourist at Ranchi airport witnessed a man holding a purple Munia bird captive in a cage, along with several other birds that were involved in illegal activities. These helpless creatures are forcibly confined away from their natural habitats, leading to the decline of many species due to their inability to adapt to artificial environments. The United Nations has highlighted the connection between illegal poaching and other unlawful practices in several recent discussions. The proceeds from poached animals often fuel further illegal trading, resulting in an increasing number of birds being captured illegally each season.

In the village of Pangti, Nagaland, a red-breasted parakeet was illegally caught from the forest. A few children were playing around its cage, unaware of its heartbreaking condition. The parakeet was in a helpless state after being poached.

Poaching can take various forms, including non-quantifiable and non-commercial activities such as hunting or trapping birds close to forests or bodies of water.

The northeastern states of India, such as Nagaland, Mizoram, and Manipur, have lush rainforests. However, there is a significant lack of bird calls due to rampant trapping and hunting. Many wild birds and animals are hunted for their meat, resulting in frequent indiscriminate killings. Birds are also hunted for the thrill they provide.

The Bombay Natural History Society (BNHS) is addressing the issue of bird hunting, especially in the northeastern states. In October 2012, a large number of Amur Falcons were killed in Nagaland. A coalition of NGOs intervened to stop this indiscriminate hunting by addressing the cultural acceptance of hunting. Through various educational and advocacy efforts, villagers came to recognize the importance of complying with the law, leading to a cessation of hunting in 2013. However, hunting remains a persistent issue in Manipur and Mizoram. Discussions with youth groups are ongoing to promote behavioural change.

There has been a decline in the population of wild birds in the northeast region, including the shooting of exotic birds such as Pheasants and Tragopans using firearms like muskets, air guns, and rifles.

To change this longstanding practice, it is crucial to re-evaluate the intrinsic value of birds. By protecting birds under the Wildlife Protection Act of 1972 and allowing them to fulfil their roles within ecosystems, we can significantly contribute to the diversity, pollination, and productivity of these ecosystems. Additionally, improving eco-tourism and eco-communication initiatives can also help enhance bird welfare.

### **Role of DNA and Forensics in Curbing Illegal Wildlife Trading**

Over time, the excessive exploitation of natural resources has led to the unsustainable and often ruthless depletion of ecosystem services worldwide. The commercialization of wildlife products has made it easy to generate income, but it has also resulted in a significant increase in threats to numerous species globally.

However, understanding the geographical origin of these products can help distinguish between legal and illegal ones. This, in turn, can facilitate the return of seized animals to their native populations and identify which populations are most heavily targeted.

According to INTERPOL, the illegal trade of plants, animals, and their derivatives is a burgeoning underground market valued at over \$20 billion annually. This illicit activity undermines local, national, and international security, jeopardizes iconic species, and diminishes global biodiversity.



Therefore, it is crucial to address the issue of excessive exploitation of natural resources and the commercialization of wildlife products. By identifying the geographical origin of these products, we can help protect endangered species and preserve the natural environment for future generations.

A recent study has shown that hunting for trade and pet collection is the second most significant cause of declining populations of endangered species. This affects a range of animals, such as mammals, birds, and amphibians. In India, the illegal trade in various species, particularly large carnivores, poses a significant threat to the country's biological resources and disturbs the balance of the ecosystem.

To tackle this issue, wildlife management authorities need effective techniques to catch perpetrators. Enforcement of the Wildlife Protection Act of 1972 is essential, and it involves identifying illegally traded wildlife parts. This can be achieved by examining attributes such as hair characteristics, specific measurements of long bones, species identification, and age-specific tooth morphology. These methods apply to various wildlife products, including raw or cooked meat, as well as degraded or processed items like tanned skins, shoes, ties, belts, and necklaces.

DNA marker technology is an effective way to identify species from different seizures. The process involves amplifying the informative segment of the mitochondrial gene and subjecting it to gene sequencing. The NCBI is a public database that can be used to validate raw sequences and identify matches. Retrieving homologous sequences from NCBI should be done with caution to minimize the risk of misidentification. Mitochondrial DNA approaches are currently the primary method for species identification. DNA forensics shows promise in combating wildlife trafficking, but there is a need for improved institutional mechanisms for wildlife forensics in India.

### **The evidentiary value of a sniffer dog**

The rise in organized illegal wildlife trade is a major concern. As a part of the Trade Records Analysis of Flora and Fauna in Commerce (TRAFFIC) program, dogs are trained to detect wildlife articles such as tiger and leopard bones, skins, and bear bile, among others.

The Wildlife (Protection) Act of 1972 empowers various officials to conduct ground-level investigations, including the power of entry, the search of premises, vehicles or vessels, and arrest and detention in case of suspicion of an offence under the Act. These officials include the Director or authorized officers, the Chief Wildlife Warden or other authorized officers, any forest officer, or any police officer not below the rank of sub-inspector.

It is worth noting that in cases related to wildlife offences, the Wildlife (Protection) Act of 1972 takes precedence over the Indian Evidence Act of 1872, which is also applicable.

While the Indian Evidence Act of 1872 allows for the testimony of various experts such as scientists, doctors, chemical analysts, bomb experts, engineers, and architects, sniffer dogs are crucial in crime investigations due to their exceptional sense of smell. These dogs are invaluable in search and seizure operations, apprehending criminals, and locating evidence and missing persons.

In court, there are limitations to the admissibility of evidence presented by sniffer dogs. The main reason for this is that they cannot be cross-examined, which is a necessary requirement for court reliability. In India, courts often consider evidence provided by sniffer dogs as inconclusive in cases involving their use. The Supreme Court of India has stated that even if such evidence is admissible, it carries limited weight given the current state of scientific understanding. However, in a separate case, the Bombay High Court recognized the value of evidence provided by tracker dogs, highlighting their impartiality and reliability. The court noted that while evidence in criminal cases must meet high standards of reliability and infallibility, tracker dogs offer a unique level of acceptability due to their inability to be influenced. Experience has shown that tracker dogs' abilities surpass those of other detection methods, including sophisticated technology, particularly in cases involving drug detection or serious offences like robbery and murder.

The Bombay High Court has recognized that dogs are intelligent animals with highly developed sensibilities. Some breeds of dogs are specifically used for hunting and tracking due to their exceptional abilities. If a dog falls into one of these categories and is shown to have been specially trained for detection, its tracking evidence is admissible and must be relied upon as high-quality evidence.

The conviction rate for wildlife cases in India is less than 3 per cent. This statistic includes evidence obtained through tracker dogs and the oral testimony of their handlers. The dogs' training and proficiency in identifying various wildlife items are also taken into account. Proper documentation and accurate recording of seized items can prove to the court that evidence from sniffer dogs not only assists investigations but also serves as valuable corroborative evidence. This evidence could potentially help authorities win the case.

### **Instances of Cruelty on Wildlife in India**

- Animal welfare refers to the overall well-being of animals and their ability to adapt to their surroundings and conditions. It reflects humanity's relationship with the natural world. Throughout history, domesticating animals has been a common practice. In India, animals play a significant role in agriculture and are also revered as deities. Animal welfare is addressed by the country's constitution and laws, and the highest court recognizes animal rights.

However, despite efforts to safeguard animals, instances of cruelty towards them persist in India, often without being reported.

Various instances of animal cruelty in India:

1. In the Malappuram region of Kerala, a bison was impregnated with a baby (also known as a *gaur*). It was brutally killed for the sale of its meat in the market. This incident took place in August 2020. Some of the local authorities received a tip about the poaching of a wild animal and conducted a raid in response. The raid showed that six individuals in the Puncha Forest area had killed a bison, with approximately 25 kilograms of meat seized from their residences. It was observed in the investigation report that the men shot the Bison in the district of Poopathiripara and disposed of its bones, carcass, and hunting equipment in the forest after butchering it. A huge amount of meat was sold and distributed after the slaughter. Gradually, the perpetrators were arrested. Subsequently, a trial was held and they were sentenced to imprisonment and a heavy fine.
2. A wild elephant recently wandered out of the Silent Valley Forest and entered a nearby village in search of food. Unfortunately, someone gave her a pineapple loaded with powerful firecrackers. When she bit into it, the pineapple exploded in her mouth, fracturing her jaw. The elephant then went to the Vellar River in Malappuram and stood in the water for several hours. Despite rescue efforts, she died from her injuries a few hours later. The forest police have suggested that the person who gave the elephant the fruit filled with crackers was attempting to harm wild animals by using it as bait.
3. A 26-year-old resident of Kapurthala district in Punjab, was accused of hitting and running over a stray dog. The authorities rescued a total of 12 dogs from his residence. BJP activist and a famous animal rights activist cum advocate, Maneka Gandhi, shared a video on Twitter allegedly depicting the accused running over a dog with his car, causing it immense suffering and eventual death, as seen in CCTV footage. The video gained significant traction on social media platforms, showing the injured dog limping away, leaving behind a trail of blood on the road.  
Further investigation revealed that the accused was involved in breeding and selling dogs, often supplying them to dog-fighting groups. Following complaints from concerned residents to activists from People for Animals (PFA), an FIR was lodged. Singh was identified and located using the vehicle registration number captured in the CCTV footage. Upon a complaint filed by a PFA representative, Singh was charged under relevant sections of the Prevention of Cruelty to Animals Act and the Indian Penal Code.
4. On 4<sup>th</sup> July 2020, in the district of Sundar Nagar, Bhopal, a 55-year-old man indulged in unnatural sex with a cow at a dairy. This incident was recorded by a CCTV camera installed at the dairy. A man named, Sabir Ali, was arrested and charged with committing unholy acts of penetrative sexual activity against an animal under section 377 of the Indian Penal Code, 1860.

5. A few years back in Bombay, an incident of animal cruelty took place wherein a stray dog was tied with a chain to a car and it was dragged on the road till it lost its life. The dog's dead body was found near the ONGC colony in Bandra. The Bandra Police filed charges against an individual who may have been suspected of being involved in the gruesome act. He is yet unidentified. The front legs of the dog were bound with a rag, implying that it was dragged behind a vehicle. There was a local journalist who found the poor animal's dead body on the roadside with crushed eyes and blood oozing out from its wounds.

### **Provisions for protection of wildlife in India**

The Indian Constitution has provisions aimed at safeguarding and promoting animal rights in the country.

Article 48 of Part IV of the Indian Constitution directs the state to organize agriculture and animal husbandry in a modern and scientific manner while safeguarding and preserving cattle breeds. It also prohibits the slaughter of cows, calves, and other milch and draught animals. Article 48A mandates that the state shall protect and improve the environment, forests, and wildlife.

Under Part IVA of the Constitution, every citizen must protect and conserve the environment as per Article 51A(g). The Constitution also empowers the Parliament and state legislatures to enact and implement laws against animal cruelty while protecting wild animals and birds, as mentioned under Article 246, read along with the Seventh Schedule.

According to Article 243G and the Eleventh Schedule, Panchayats have been granted the authority to manage issues about animal husbandry, dairy and poultry.

Similarly, as mentioned in Article 243W and the Twelfth Schedule, municipalities are required to create regulations related to the prevention of animal abuse.

Section 428 of the Indian Penal Code, 1860 states that any individual who causes harm to an animal may face imprisonment for up to two years or a fine, or both.

Similarly, according to Section 429 of the Indian Penal Code, 1860, causing injury or death to an animal, regardless of its value, can result in a penalty of imprisonment for five years, or a fine, or both.

The Prevention of Cruelty to Animals Act was introduced in 1960 with the main objective of preventing animal cruelty. This Act particularly deals with protecting animals from fighting or shooting competitions. Additionally, the Act also mandates that animal owners provide their animals with proper food, shelter, and care.

The Wildlife Protection Act of 1972 was introduced to safeguard wildlife conservation and combat illegal trading and smuggling of wildlife. This Act aims to protect endangered species worldwide.

## **Is there a need for amending the current legislation relating to the safeguarding of wildlife in India?**

India has put in place several laws to protect its wildlife, but these laws are not being effectively enforced. The current legislation imposes fines, penalties, and charges for any violation of India's wildlife conservation rules. However, there have been suggestions to modify these laws to make them more effective.

Under the Animal Cruelty Prevention Act, which was passed in 1960 and came into effect in 1974, various forms of animal cruelty are punishable by fines and/or penalties. However, some advocacy groups believe that the punishments are inadequate. The maximum penalty for a first-time offender is only fifty rupees, which is viewed by some as too lenient.

Animal advocates are using the hashtag #NoMore50 to raise awareness about the serious issue of animal abuse and to push for legislative changes that would make it a crime. The current law, which is 60 years old, was recommended to be modified by the Union Ministry of Fisheries, Animal Husbandry, and Dairying in February of this year. However, during that session, the legislature did not take any action on those proposed changes. As a result, animal rights activists are now mobilizing ahead of the upcoming legislative session to urge the implementation of these changes.

Despite the efforts to modify the law, it remains unchanged. In 2011, the Animal Welfare Board of India (AWBI) developed an Animal Welfare Bill and submitted it to the Ministry of Environment and Forests (now the Ministry of Environment, Forests, and Climate Change). However, no action was taken by the authorities, according to former vice-chairman Chhinny Krishna of the AWBI.

Earlier, the number of fines ranged from Rs. 10 to Rs. 50 for illegal acts such as beating the animals, kicking, torturing and mutilating the animals. On the contrary, the amended and proposed draft suggests the amount of the fine to be a minimum of Rs. 75, 000. This is triple the amount of fine imposed before.

After taking suo moto notice in this case, the High Court called the animal cruelty prevention case in “*Re: Bruno*” in remembrance of poor dog. In the wake of three teenagers’ unfortunate dog Bruno’s death at Adimalathura Beach in Thiruvananthapuram, the court initiated a Public Interest Litigation (PIL).

The court has ordered the Animal Welfare Board of India (AWBI) to develop an actionable plan to raise public awareness about animal rights and responsibilities. The AWBI has been given a month to submit the report, and the court has stressed the need for swift action to prevent similar incidents from recurring. The court has also emphasized the importance of the state government upgrading veterinary hospitals and associated infrastructure

facilities. Additionally, the court has stressed the need to give district administrations the authority to investigate claims of animal abuse and has recommended enacting rules that prohibit apartment residents from owning certain pets.

## **Evolving Jurisprudence and Conclusion**

The judiciary plays a crucial role in protecting wildlife by enforcing environmental laws and ensuring their effective implementation. Throughout this paper, we have examined various aspects of the judiciary's involvement in wildlife conservation, highlighting its importance in shaping policies, enforcing regulations, and resolving disputes related to wildlife protection.

Firstly, the judiciary acts as a guardian of environmental legislation, interpreting and enforcing laws that safeguard wildlife habitats, species, and ecosystems. Through landmark judgments and legal precedents, courts have affirmed the fundamental rights of wildlife and upheld the principles of sustainable development. By holding governments and industries accountable for environmental degradation, the judiciary fosters a culture of responsibility towards biodiversity conservation.

Secondly, the judiciary acts as a check against governmental inaction or negligence in wildlife protection. Through public interest litigations (PILs) and judicial activism, courts have compelled authorities to address critical issues such as habitat destruction, poaching, and illegal trade in wildlife products. By intervening in cases of environmental degradation and species endangerment, the judiciary ensures that the interests of future generations are safeguarded against short-term economic interests.

Furthermore, the judiciary plays a crucial role in resolving conflicts between conservation objectives and developmental projects. By balancing competing interests and considering scientific evidence, courts strive to achieve a harmonious coexistence between human activities and wildlife conservation efforts. Through the principle of sustainable development, courts encourage the adoption of ecologically sensitive practices that minimize harm to wildlife while promoting socio-economic progress.

Moreover, the judiciary serves as a forum for resolving disputes arising from conflicts over natural resources and wildlife management. By providing a platform for stakeholders to present their arguments and grievances, courts facilitate dialogue and negotiation towards achieving consensus-based solutions. Through alternative dispute resolution mechanisms such as mediation and arbitration, courts seek to reconcile conflicting interests and promote collaborative approaches to wildlife conservation.

In addition, the judiciary plays a crucial role in upholding international agreements and treaties aimed at protecting wildlife and biodiversity. By incorporating principles of international law into domestic jurisprudence, courts contribute to the global effort to combat transboundary threats to wildlife, such as habitat loss, climate change,

and wildlife trafficking. Through judicial cooperation and mutual assistance, courts enhance the effectiveness of international conservation initiatives and promote cross-border collaboration in wildlife protection.

In conclusion, the judiciary's role in wildlife conservation is multifaceted and indispensable. By interpreting and enforcing environmental laws, holding governments accountable, resolving conflicts, and upholding international obligations, courts contribute significantly to the preservation of biodiversity and the sustainable use of natural resources. However, there are still challenges to ensuring effective enforcement, enhancing judicial capacity and promoting greater public participation in environmental governance. Nonetheless, with continued judicial engagement and public awareness, the judiciary can continue to play a transformative role in shaping a future where wildlife thrives in harmony with human development.

