

Wildlife Conservation Laws in India

An Overview

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The Beginning...

- The first Indian Forest Act enacted in 1865
- The Madras Wild Elephant Preservation Act enacted in 1873: This was the first wildlife legislation in Modern India
- Govt. of India enacted the Elephant Preservation Act 1879

Contd...

- The Indian Forest Law Act VII enacted in 1878
- The Indian Forest Act enacted in 1927
- The Wildlife (Protection) Act enacted in 1972

Other important Acts of Parliament which impact Wildlife Conservation

- **Forest (Conservation) Act, 1980**
 - with Amendments Made in 1988

An Act to provide for the conservation of forests and for matters connected therewith or ancillary or incidental thereto

- **The Environmental (Protection) Act 1986**

No. 29 OF 1986 [23rd May, 1986.]

An Act to provide for the protection and improvement of environment and for matters connected there with

The Wildlife (Protection) Act 1972



An act to provide for the protection of wild animals, birds and plants and for matters connected therewith or ancillary or incidental thereto with a view to ensuring the ecological and environmental security of the country.



Nature of Offences

- Cognizable
 - Non Cognizable
 - Bailable
 - Non Bailable
 - Compoundable
 - Non Compoundable
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- The background of the slide features several decorative elements consisting of concentric circles in various shades of blue, resembling ripples in water. These circles are scattered across the lower half of the slide, with some being more prominent than others.

Contd...

- The Wildlife (Protection) Act 1972 extends to the whole of India except Jammu & Kashmir
- Various species classified in Schedules I to VI

- Species in Schedule I can be hunted only in very special conditions *if they are a threat to human life*
- Species in Schedule II can be hunted *if they are a threat to human life or property*
- Trade of Species in Schedule I or Part II of Schedule II invites very stringent punishment

- Species in Schedule VI are specified plants whose possession, collection, sale etc. is regulated by Chapter III-A

- Species in Schedule V are Vermin which can be hunted freely
 - This includes
 - Common crow
 - Fruit bats
 - Mice
 - Rats

➤ Sec 2: Definitions

- (5) Captive animal means any animal specified in Schedule I,II,III or IV which is captured or kept or bred in captivity

Sec 2 (16) Hunting

➤ Includes:

- Killing or poisoning of any wild or captive animal *or any attempt to do so*
- Capturing, coursing, snaring, trapping, driving or baiting any wild or captive animal and every attempt to do so.
- Injuring or destroying or taking any part of the body of such animal, or damaging the eggs or nests of such birds or reptiles

(20) Meat includes blood, bones, sinew, eggs, shell or carapace, fat and flesh with or without skin, whether raw or cooked, of any wild or captive animal, other than a vermin.

(31) Trophy means the whole or any part of any captive or wild animal, other than vermin, which has been kept or preserved by any means, whether artificial or natural and includes,

(a) rugs, skins and specimens of such animals mounted in whole or in part through taxidermy, and

(b) antler, bone carapace, shell, horn, rhino horn, hair, feather, nail, tooth, tusk musk, eggs, nests and honeycomb

- (36) wild animal means any animal specified in Schedules I to IV and found wild in nature
- (37) Wild life includes any animal , aquatic or land vegetation which forms part of any habitat

Protected Areas

- Sanctuary Sec. 18-Sec. 34
- National Park Sec. 35
- Conservation Reserve Sec. 36 A-B
- Community Reserve Sec. 36 C-D

The Wildlife (Protection) Act 1972

- Amended by Amendment Act 16 of 2003
- The Wildlife (Protection) Amendment Bill 2002 proposes...
 - To provide that captive animals and wild animals included in Schedule I and part II of Schedule II of the Wildlife Act and their parts and products can be acquired only by way of inheritance

➤ Sec 40: Every person in possession or custody of any captive animal specified in Schedule I or part II of Schedule II is required to declare this to the Chief Wildlife Warden

- 2-A: No person except one with a certificate of ownership can keep, acquire, keep in control etc. any captive animal specified in Schedule I or part II of Schedule II except by inheritance
- 2-B: Such inheritance to be declared within ninety days to CWLW

Provided that Sec 40 (2-A & 2-B) do not apply to the live elephant

- Sec 42: Certificate of ownership- to be granted only after ensuring that the applicant has adequate facilities for housing, maintenance and upkeep of the animal
- Sec 43: No person who has with him a captive animal with a certificate of ownership shall transfer by way of sale or offer for sale or any other commercial consideration, any captive animal

Sec 51-Penalties

- Offence related to animal of Schedule I or Part II of Schedule II- Minimum 3 yrs. Imprisonment upto 7 yrs. AND fine not less than 10,000/-
- On second and subsequent offence, Minimum 3 yrs. Imprisonment upto 7 yrs minimum fine 25,000 years

➤ Hunting in a National Park or Sanctuary or alteration of boundaries :

- Minimum 3 yrs. Imprisonment upto 7 yrs. AND fine not less than 10,000/-
- On second and subsequent offence, minimum 3 yrs. Imprisonment upto 7 yrs. AND fine 25,000 years

Contravention of Chapter V-A- Trade in species of Schedule I or Part II of Schedule II-

- Minimum 3 yrs. Imprisonment upto 7 yrs.
AND fine not less than 10,000/-
- On second and subsequent offence,
minimum 3 yrs. Imprisonment upto 7 yrs.
AND minimum fine 25,000 years

- Other provisions: Imprisonment for upto 3 years or fine upto 25,000 OR both.
- Forfeiture of property derived from illegal wildlife trade- Chapter VI-A- Section 58-A-Y

➤ Sec 51-A: Any arrested person accused of hunting in a NP or WLS or offences related to Schedule I or Part II of Schedule II or of alteration of boundaries of NP/WLS & any person previously convicted of an offence under this Act shall not be released on bail unless

- The PP has been provided an opportunity to oppose the bail
- Where the PP opposes the bail, the Court is of the opinion that there are reasonable grounds to believe that the accused is not guilty and that he is not likely to commit any offence while on bail

Sec 57: When it is established that a person is in possession, custody or control of any captive animal, animal article, meat, trophy etc. it shall be presumed, until the contrary is proved by the accused that he was in such possession, custody etc. illegally

Sec 52: Attempts and abetment:
shall be deemed to have
contravened that provision or rule
or order.



Wildlife (Protection) Amendment Act 2006

- Notified on 4th Sept. 06
- Creation of National Tiger Conservation Authority
- Wildlife Crime Control Bureau
 - Director Wildlife Preservation- Director
 - IGP Addl. Director
 - DIG Police Jt. Director
 - Addl. Comm. (Customs & CA) Jt. Director

➤ Offence related to Core Area of a Tiger Reserve or Hunting or Boundary alteration in a Tiger Reserve

- First Conviction: Minimum 3 yrs term which may extend to 7 years and fine not less than 50 thousand which may extend to Rs. 2 lakh
- Second or subsequent conviction: Not less than 7 yrs. term and fine not less than 5 lakh which may extend to Rs. 50 lakh.

Some relevant sections of the Criminal Procedure Code 1973

- Sec 50: person arrested (without warrant) to be informed of grounds of arrest and of right to bail
- Sec 56: Person arrested to be taken before Magistrate or Officer in Charge of Police Station, without unnecessary delay

- Sec 57: Person arrested not to be detained beyond 24 hours *exclusive of the time necessary for journey from the place of arrest to the Court*

- Sec 25 of the Indian Evidence Act 1872 provides that Confession made before a police officer is not to be proved.
- Before the Indian Evidence Act, a Forest Officer is NOT a Police officer.
- Section 50 (9) of the WLPA 1972 provides that any evidence recorded and received by an officer not below the rank of ACF shall be admissible in trial *provided it has been taken in the presence of the accused.*

Directions of the Hon. Supreme Court in D.K. Basu vs. State of W. Bengal -1997

Requirements for Police personnel while
arresting or detaining any person

- Persons carrying out arrest should carry proper , visible and clear identification and name tags with designation
- Details of all persons who carry out interrogation of the detainee should be recorded in a register

- Memo of arrest must be prepared and must be attested by at least one witness. It should be countersigned by the arrestee and should contain the time and date of arrest
- Time , place of arrest and venue of custody of person arrested must be intimated to the next of kin or relative of the accused through the district legal aid forum and the police station of the area concerned telegraphically within a period of 8-12 hours after arrest

- The arrested person should be informed of his right to have someone informed of his arrest or detention as soon as he is arrested
- If the arrestee so desires, he must be examined for minor or major injuries, if any. These should be recorded.
- The arrestee must be examined by a qualified doctor every 48 hours during detention

The Hon. Supreme Court and Wildlife Conservation

➤ Centre for Env. Law v/s Union of India

- As regards denotification of any area included in Sanctuary/National Park, before placing the proposal before the Legislative Assembly, State Govt. to refer it to NBWL and proposal to be placed before Assembly alongwith opinion of NBWL

(22.8.1997)

Centre for Env. Law v/s Union of India

- Pending further orders, no dereservation of forests/Sanctuaries/National Parks shall be affected.

(13.11.2000)



T.N. Godavarman v/s Union of India

- Issue notice to all respondents. In the meantime, we restrain respondents nos. 2 to 32 from ordering the removal of dead, diseased, dying or wind fallen trees, drift wood and grasses etc. from National Park or Game Sanctuary or forest. If any order to this effect has been passed, the operation of the same shall be stayed.

(14.2.2000)

Naveen Raheja v/s Union of India

- No new zoos to be established without the permission of the Central Zoo Authority and the SC.

(20.11.2000)

- While our laws are amongst the most stringent in the world, our conviction rates are very very low
- The higher degree of punishment prescribed also means that judges would be reluctant to award sentences where there is an element of doubt.

- Most of us feel happy when any wildlife offence is detected and any persons arrested.
- This is only the beginning of the battle. We must make every effort to secure conviction, so that the offenders are made an example before society.
- If offenders are able to walk away easily from their crime, it will embolden them to commit even bigger offences in the future while demoralising staff.
- We often lose the advantage because of minor errors or oversight in our paperwork or due to failure to pursue such cases properly

A young elephant calf is nestled among the legs of several larger adult elephants in a savanna. The calf is looking towards the camera with its trunk raised and touching the trunk of one of the larger elephants. The scene is set in a field of tall, golden-brown grass under bright sunlight.

THANKS