

Recommendations
to Strengthen

The Wildlife (Protection) Amendment Bill, 2021

Submitted to

The Parliamentary Standing Committee on Science and
Technology, Environment, Forests, and Climate Change,
Parliament of India



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The act's preamble has been revised, offering more comprehensive legal support for wildlife conservation in India, which is a great step forward. As a result, the amendment has added and substituted provisions under several sections. The amendment broadens the scope of the act by including a mechanism for implementation of the provisions under Convention on International Trade in Endangered Species (CITES), a key international wildlife commitment for India.

However, there are some significant gaps, particularly in the conservation of animal habitats and connectivities, as well as other inadequacies that should be addressed in order for it to be more effective. Wildlife Trust of India's comments and suggestions are in this document.

1. Chapter I of the Principal Act

Addition / changes in Definition

- i. *Electrocution has emerged as a popular method of hunting wild animals in both aquatic and terrestrial environments. Thus, it should be included to the Act under section 2(16) (b).*
- ii. There is currently no distinct definition for physically or chemically capturing any wild animal for the purposes of research, conservation translocations, disease investigation and treatment, or human-wild animal conflict mitigation. And any attempt to do so is usually classified as 'hunting.' It is proposed that such acts be given a distinct definition.

Some suggestions include the following: Restraint, Immobilization, and Capture

- iii. Section 2 (16 A) of the amendment defines a 'invasive alien species' as "a species of animal or plant which is not native to India and whose introduction or spread may threaten or adversely impact wild life or its habitat." The definition is not correct scientifically.

India is a signatory to the Convention on Biological Diversity (CBD), which defines Invasive Alien Species as "plants, animals, pathogens, and other organisms that are non-native to an ecosystem, and which may cause economic or environmental harm or adversely affect human health. In particular, they impact adversely upon biodiversity, including decline or elimination of native species - through competition, predation, or transmission of pathogens - and the disruption of local ecosystems and ecosystem functions". It is evident that the species must be alien to an ecosystem, not a country.

Thus, the amendment's definition of Invasive Alien Species is wrong and should be rectified.

- iv. In addition to the above changes, additional terms should be added to Section 2 of the Act, as participatory forest management is becoming increasingly important in the conservation of species and their habitat, with legal backing of the Forest Rights Act (2006) and government policy statements.

As a result, some terms require legal support and consideration under the Wildlife (Protection) Act. We propose to include the following in Section 2:

2 (10) (A) - Community Forest Resources - as defined in the Forest Rights Act, 2006

2 (10) (B) - Critical Wildlife Habitat - as defined in the Forest Rights Act and includes critical habitats of Protected Areas and adjoining forest areas.

2 (23) (A)-Participatory Forest Management as implemented in Protected Areas, with communities serving as Eco Development Committees (EDCs) and the Forest Development Agency (FDA) acting as the nodal agency.

- v. Ecologically fragile areas adjoining National Parks and Sanctuaries are critical for sustaining their biodiversity and habitat integrity. They also function as shock absorbers against human activities. Environment (Protection) Act, 1986 designates such areas as Eco-Sensitive Zones (ESZ), critical for wildlife and habitat conservation both inside and outside protected areas. So, it is essential to include this term in Section 2 of the Wildlife (Protection) Act;

2(12) (a) - Eco-Sensitive Zones (ESZ)- Area declared as ecologically sensitive as per Environment (Protection) Act, 1986 and mandated by Supreme Court.

- vi. Linear infrastructure pose threats on wildlife and their habitat and is being referred in various legal contexts. Central government already has guidelines for linear infrastructure intrusion in natural areas. It is suggested that this is defined under Section 2 of the Wildlife (Protection) act as below;

2 (18) (a)- Linear Infrastructure – Roads, rail, canals, penstocks, power lines, fences, and other man-made intrusions into natural ecosystems that are linear in structure.

2. Chapter II of the Principal Act

Constitution of Standing Committee of SBWL

The addition of Section 6A to the Act would allow states to form a Standing Committee of the State Board for Wildlife (SBWL), which would be chaired by the State Board's Vice-Chair (the Minister-in-Charge of Forest and Wildlife), who could nominate up to ten members from among the State Board's members.

This is similar to the provisions of a Standing Committee of the National Board for Wildlife provision (NBWL). It is anticipated that the Standing Committee will primarily focus on wildlife clearance issues, with minimal attention paid to framing policies and advising the state governments on ways and means of supporting wildlife conservation.

This amendment has two important ramifications in our opinion:

- a. Due to other commitments of the Chief Minister, it is quite possible that he or she will not attend SBWL meetings (as has been observed in NBWL), weakening the SBWL's policy decision function and speeding up wildlife clearances.
- b. The amendment merely specifies the maximum number of Standing Committee members and makes no mention of the minimum number of Standing Committee members. This might lead to a Standing Committee with only one member other than the Vice-Chair, rendering the organisation ineffective because other members will only be on paper.

In light of this, we suggest that the SBWL's Standing Committee include all nominated SBWL members from non-governmental organisations, as well as the notable conservationists, ecologists, and environmentalists.

3. Chapter III of the Principal Act

Ex-gratia support for wildlife-caused damage

Wild animal damage to human property and lives has emerged as the most pressing concern in wildlife management. Providing relief to those affected by such incidents on private or community land is one of the first initiatives that the state government should take to increase people's tolerance for wild animals. In such cases, the state governments have systems to provide support. We propose the following clause to give it legal standing.

11(4) The state shall provide ex-gratia support for wildlife damages to human lives and properties on private or community land.

4. Chapter IV of the Principal Act

Legal mandate to institutions constituted for participatory forest management

The current policies mandate participatory forest management and constitute public institutions that do not get legal back up under Wildlife (Protection) Act, and these institutions function without a legal mandate. Such institutional and participatory mechanisms like Gram Sabha, Forest Rights Committee, Community Forest Resource, Management Plan have legal backing under the FRA. Furthermore, the Forest Development Agency, created for joint forest management, should be assigned to carry out operations in sanctuaries comparable to those carried out by the Tiger Conservation Foundation in tiger reserves (Section 38X). We suggest following insertions in Section 27;

27(2) f- Institutions like Forest Development Agency (FDA) and Eco-Development Committees (EDC) involved in Participatory Forest Management shall assist in the sustainable management and conservation of the Sanctuary while deriving means of livelihood from the resources of the sanctuary.

27(2) g- Forest Development Agencies should have the following objectives

- i. promote ecotourism with involvement of EDCs and provide support to safeguard the Sanctuary*

- ii. *solicit financial, social, legal and other support for sustainable management and conservation of Sanctuary*
- iii. *mobilise financial resources of the Sanctuary by charging a fee approved by government from resorts/hotels and other agencies that depend on the resources of the sanctuary.*
- iv. *to support nature education, research and training needs of sanctuary*

Grant of permit for research

- i. Section 28 of the Act empowers the Chief Wildlife Warden to grant permits to enter and reside in a sanctuary for various purposes, including scientific research. It is also a well-known fact that good research is a vital component of wildlife management. Academic and applied research is often conducted by independent educational, scientific, and conservation groups facing challenges obtaining research permits. Approval from the Central Government is necessary for research involving the handling of Schedule I species. There is no transparent procedure for reviewing the merits of research proposals and timely granting of permits. Research grants are time-bound, and most ecological research is season-specific; therefore, delays in granting permission imperil the project. Hence, emphasis should be on making the process of permission less cumbersome.

The proposed amendment in the Schedules are more complex and technical, the Chief Wildlife Warden may require expert advice to take an informed decision. Moreover, overlap with Forest Rights Act would require support of social scientists too. We recommended including a separate sub-section (under Section 28) 'Granting research permits' outlining specific procedures for assessing the merit of the application. Following insertion is suggested:

28(3) - Chief Wildlife Warden shall, with approval of state government, nominate three experts/professionals in the field of wildlife research and social sciences for advising him in matters related to permission for scientific research. In Community Forest Resource areas this shall be done after consultation with the Gram Sabha.

Provided that when permit is granted –

(a) in respect of any wild animal specified in Schedule I, the Central government shall be intimated.

(b) in respect of all wild animals, with previous permission of state government

ii. Commercial films are very damaging, as was proven repeatedly in different areas. In many cases, courts have put stiff penalties on film crews. Amendment in Section 28 (b) has added film making under Photography. We want to make it more consonance with wildlife conservation by suggesting the following changes in the amendment

28(b) Photography and wildlife film making without making any change in the habitat or causing any adverse impact to the habitat or wildlife. Commercial films shall be allowed only in tourism zones.

(suggested insertion in the amendment are underlined)

Banning use of injurious substances in sanctuaries and its eco-sensitive zone

Given the increasing number of incidents of wildlife casualty due to electrocution outside the sanctuary limits, it is critical to ban the use of this detrimental practice within the eco-sensitive zone of protected areas.

Hence, the scope of Section 32 should be broadened by applying its provisions beyond the sanctuary boundary – extending its scope up to the eco-sensitive zone, and classifying the use of live electric wires to prevent crop raiding and electrofishing in water bodies as a 'injurious substance.'

Management Plans of sanctuary and national parks

Section 33 has been revised to emphasise the drafting of management plans for sanctuaries in accordance with central government guidelines and in cooperation with the Gram Sabha in areas where the Forest Rights Act (2006) applies.

The amendment, however, ignores the quality aspects of the Management Plans, which serves as a foundational document for the systematic development

and management of protected areas. The utility of management plans is limited if they are not ecologically and scientifically sound. The National Wildlife Action Plan (2017-31) of India highlights the concern and recommends streamlining the process of reviewing the plans, as well as providing statutory backing to the Management Plans of Protected Areas (PAs), similar to the Tiger Conservation Plan.

These aspects should be adequately addressed in the amendments.

Furthermore, the Chief Wildlife Warden has the authority to approve the Management Plans of PAs. In many instances, he or she is unlikely to be a wildlife expert because the posting is seniority - based instead of knowledge and experience in wildlife management. The state should constitute a management plan approval committee, with the requisite expertise, under the chairmanship of the Chief Wildlife Warden.

The Forest Rights Act mandates that Community Forest Resource (CFR) management plans should be prepared by Gram Sabha. One Protected Area can have several Gram Sabha with Community Forest Resource plans of their own. Hence PA management plans should incorporate all these CFR plans.

In accordance with such we propose to make following amendment in Section 33:

- a. *Change in the amended section (underlines parts are suggested changes)*
"in accordance with such management plans for the sanctuary approved by an expert committee with Chief Wildlife Warden as the Chairperson as per the guidelines issued by the Central Government and in case the sanctuary also falls under the Scheduled Areas or areas where the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 is applicable, to incorporate the CFR management plans prepared as per Sec 5 of FRA and Rule 4 (f) after due consultation with Gram Sabha concerned.
- b. Approval of Management Plans necessitate expertise from different fields as well as general acceptance from local communities. Hence, the proposed amendment is;

Section 33(e) - Apart from Chief Wildlife Warden, the management plan approval committee shall consist of two experts in the fields of wildlife conservation, one social scientist, officer of the concerned tribal department, two nominated presidents of EDCs (at least one woman) and the wildlife warden/ in-charge of the sanctuary.

- c. There are many instances of wild animals getting killed and injured because of abject irresponsibility of concerned agencies. Moreover, FRA also mandates for creation of linear infrastructure. In all these cases a viable as well as judicious decision has to be taken. Thus, we suggest following amendment;

Section 33 (f) - All linear infrastructure should be considered on a case by case basis by the Committee before including them in the Management Plan. It shall be incumbent upon the agency operating the linear infrastructure like roads, railways and electric lines to put in place mitigation measures for avoiding wildlife deaths and injury.

- d. Core or Critical Tiger (CTR) Habitat has been defined in the Wildlife (Protection) Act in the case of Tiger Reserves. However, while Critical Wildlife Habitat (CWH) is defined in the Forest Rights Act, it has yet to be included in the Wildlife (Protection) Act. Due to this, no CWH has been notified, as opposed to CTR, already been declared for all Tiger Reserves. *For this reason, Sanctuary would include core or critical wildlife habitat as defined under Section 2 (b) of the Forest Rights Act, identified by an expert committee as per MOEF guidelines, and a buffer that is peripheral to the core.*

Other essential points related to management plans of protected areas are given below, which should be considered for inclusion in the amendment appropriately.

- It is also critical to ensure that protected areas are managed following the plans that have been adequately reviewed and approved, as mentioned previously. Currently, the prescriptions outlined in management plans

mandatorily do not serve as a basis for the Annual Plan of Operation (APO).

- It is proposed that the amendment includes an explicit reference to protected areas is managed according to management plan prescriptions and the adaptive APOs derived essentially from the approved management plan.
- The protected area management plan must incorporate village-level micro-plans, for mitigating the effects of protected area management on local communities' livelihoods as a result of user rights restrictions, locals' vulnerability to human-wildlife conflict, reducing community dependence on the protected area resources, and overall ecological development outside protected areas.

Management of Community Reserve

Section 36 D (4) of the act states that the Community Reserve Management shall elect a Chairman who shall be the Honorary Wildlife Warden on the Community Reserve. It is understood that unless the land owner has a decisive say in the management of Community Reserve, it would be difficult to convince the person/agency owning the land to get the area declared as Community Reserve, hence we suggest following amendment in the section.

36D (4) - The owner of the land shall be the Honorary Wildlife Warden of the Community Reserve.

5. Chapter V of the Principal Act

Ownership transfer of elephants

The Elephant Task Force, constituted by the Ministry of Environment and Forests, Government of India, recommended in its 2010 report that agencies, institutions or individuals should phase out the acquisition of elephants already in captivity or wild-caught for entertainment, commercial, or other purposes. The task force also recommended amending the law to prohibit the sale, transfer, power of attorney, lease, gift, and donation of elephants.

Establishment of lifetime care centres was also recommended to care for the abandoned, confiscated, or captured elephants as a step to phase out the practice.

However, the proposed change to Section 43, i.e. the addition of sub-section 4, implies that the general prohibition on the transfer of animals by any means in this section will not apply to 'live elephants,' resulting in the start of commercial trade in elephants. The amendment contradicts the Government of India's Elephant Task Force recommendation.

The broader issue of elephant welfare in captivity will likewise go unresolved.

Thus, we suggest that this amendment should not be made.

6. Chapter VI of the Principal Act

Powers to CITES authorities and other enforcement agencies

Chapter V B has been added to the amendment to regulate the trade of endangered species in accordance with CITES, and powers have been delegated to the 'Management Authority' and 'Scientific Authority' to carry out their function under the convention.

Sections 50 to 58 of Chapter VI, on the other hand, grant no power to these CITES authorities (or any authorised officer). Section 50 does not give them the power to enter, search, arrest, or detain anyone.

Thus, in addition to the Forest and Police Officers, the CITES authorities and other enforcement agencies such as Customs officials and the Coast Guard should be given power under Section 50.

7. Chapter VII of the Principal Act

Declaration of certain wild animals as Vermin

The Principle Act's Schedule V - listing 'Vermin' species - has been removed, keeping only Section 62, which allows the Central Government to designate any species not included in the amended Schedule I of the Act as a 'Vermin.'

In the recent past, the central government designated many species as Vermin in few states, including the Nilgai, Wild Pig, and Rhesus Macaques. These notifications were used by the states to 'kill' the animals arbitrarily, without first assessing the population status, prescribing specific methods to get rid of the problem, or evaluating the overall impact of the killings on the ecosystem. According to the Principle Act, animals designated as 'Vermin' may be hunted, which does not always necessitate the animal to be killed according to the Act's definition.

We are confident that no species should be categorised as 'Vermin' without first assessing its number, the level of harm caused to people, and the attempts made by the state or UT administration to resolve the problem prior to communicating the intent to the Central Government.

We suggest that the amendment in the Act should define a criteria and procedure for the Central Government to make scientifically rigorous and evidence-based decisions on this matter.

8. Wildlife conservation outside Protected Areas

The key to wildlife conservation is habitat improvement and protection. These aspects are limited to the management of habitats in four categories of Protected Areas (National Park, Sanctuary, Conservation Reserve, and Community Reserve) and Tiger Reserves.

The National Wildlife Action Plan (2017-31) of India recommends securing wildlife corridors and implementing a landscape approach to wildlife management. However, the proposed amendment makes no mention of granting legal status to habitat connectivities / corridors that are critical for the

conservation of long-ranging species like elephant. The integrity of these wildlife corridors is critical for the long-term survival and genetic health of such species. It is vital to use a landscape-level approach to protect habitats that allow animals to travel from one habitat to another. Because the effects of climate change may cause species range shifts, protecting these connectivities and vast landscapes is critical.

In the light of these facts, specific recommendations are as below;

i. Legal recognition to elephant corridors

A separate chapter on 'Corridor and Landscape Conservation' should be added in the Wildlife (Protection) Act. It should include assigning legal safeguard to corridors by notifying them under Wildlife (Protection) Act.

Wildlife Trust of India of India has identified 101 elephant corridors across the country. Corridor identification and ground validation should be a continuous process. It is suggested that the ecologically and objectively identified elephant corridors be notified under the Wildlife (Protection) Act.

ii. Inclusive management of wildlife corridors and habitats by engaging other landowners

Owners of lands in identified corridors and key wildlife habitats (such as forests, grasslands, wetlands, open natural habitat, plantations etc.) outside the jurisdiction of a Protected Area (such as territorial forests, government departments, tribal councils in Sixth Schedule areas, public and private sector institutions, tea gardens, plantation companies, linear infrastructure development agencies, and so on) should be mandated to manage the land in accordance with a corridor / habitat conservation plan prepared in consultation with the state forest and wildlife department and experts. The plan should primarily address the target species' ecological requirements.

iii. Stopping migration of elephants should be an offence

To control human-elephant conflict and to prevent elephants from coming to one's range / region / state, government agencies and private parties across the country often construct various types of long-distance physical barriers, including solar power fences. Such barriers can obstruct elephants' migratory routes, causing changes in their ecology and behaviour.

We suggest that installing such long-distance barriers within forests, natural ecosystems, and across established migratory corridors be considered an offence under the Act. It should not, however, be applied to barriers erected by local residents to protect themselves and their property.

9. Schedules of wild animals

There is no clarity on how the Schedules, particularly Schedules I to III, have been assigned to the species on the list. It does not even match the most accepted criteria of the IUCN Red List of Threatened Species. The country's knowledge of the status of most species and threats to their habitat is restricted to a few taxa. Assessing the species' national status before classifying them in specific schedules would be helpful.

We suggest that the schedules should be revised after conducting National Red Listing of species based on the criteria developed by IUCN.

There are instances where there are errors in the common and scientific names of wild animals on the schedules. Further, genetic and other methods keep on updating the taxonomy and changing the nomenclature of flora and fauna. It is not feasible to rapidly amend names on the schedules as per the change in nomenclature. Mismatches in updated nomenclature and scientific names of scheduled species in the legal documents result in a court of law's unfavourable observations.

Thus, names on the schedules should be correct. It is also necessary to make a specific mention regarding the automatic adoption of the revised scientific name under the Act's Schedule.

Wildlife Trust of India is a wildlife conservation charity organization, dedicated to preserve and protect the natural world and its wild habitats. Our team has been fully committed to India's wildlife for the last 20+ years.

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