

Human Wildlife Conflict: The Nuances of Indian Law That Render it Ineffective

Anju C Thomas¹, Dr. Sumana Vedanth²

¹Research Scholar, Faculty of Law, SRMIST, Kattankulathur, Chennai, Tamil Nadu, India,

²Associate Professor, Faculty of Law, SRMIST, Kattankulathur, Chennai, Tamil Nadu, India

ABSTRACT

Human Wildlife Conflict management represents a critical aspect of environmental conservation and efforts towards sustainability. Animal attacks and resultant loss of life and livelihood have increased exponentially in the recent past, pan-India. Human Wildlife Conflicts have extensive implications on people, including but not limited to indigenous tribes, farmers and communities occupying lands within and in fringes of protected areas. Human-wildlife interactions are predictable and inevitable in some instances while unforeseeable in others. Therefore, prevention, mitigation and compensation through a well-crafted legal mechanism is the only apt workaround. In this backdrop, this research paper examines history and evolution India's wildlife law and policies in the light of the narratives which shaped them, and analyses the provisions of the Wildlife Protection Act, 1972 for gauging its preparedness and efficacy. The methodology used is doctrinal, studying relevant primary sources (statute, cases, treaties). Secondary sources are relied on for additional insights. Historical and evolutionary analyses are done to contextualize the development of the wildlife protection Act during various periods and trace its milestones. The research paper concludes that the existing statutory provisions are inadequate for addressing human wildlife conflicts and makes a case for amendments in tune with international principles and practices to be incorporated in the letter and spirit of the Wildlife Protection Act, 1972.

Keywords: Human wildlife conflict, Wildlife Protection Act, human rights, conservation, development, international practices, sustainable coexistence

INTRODUCTION

Human Wildlife Conflict management represents a critical aspect of environmental sustainability. It has widespread multidimensional implications on people, wildlife, ecosystems, and nature. The World Wildlife Fund defines human-wildlife interaction as a neutral term referring to any encounter between people and wildlife and human wildlife conflict as struggles that arise when the presence or behaviour of wildlife poses actual or perceived direct, recurring threats to human interests or needs, often leading to disagreements between groups of people and negative impacts on people and/or wildlife. (Gross et al 2021) Human wildlife conflicts according to other literature, occur when the needs and behaviour of wildlife impact humans negatively or when humans negatively affect the needs of wildlife. (Mekonen 2020) Global agencies have recently taken to building internationally viable policy guidelines and technology to combat human wildlife conflicts as it has become a pressing concern hindering the achievement of sustainable development goals in many developing economies and economies in transition, the newest of such efforts being the 2023 IUCN SSC guidelines.

Human wildlife encounters and resultant loss of life, injury and loss of livelihood have increased exponentially in the recent past globally and pan- India. India being home to biodiversity and host of hotspots- human wildlife conflict is a reality that cannot be ignored. Sustenance of these hotspots and the biodiversity within depends on how effectively human wildlife conflict mitigation is achieved in the near future. The economic burden on the system and community in the foreseeable future purported to be to maximise conservation efforts as well as community welfare in terms of safeguarding and promoting human and constitutional rights of people in conflict prone ecosystems, it is necessary to have a social, legal and environmental ecosystem of tolerance and coexistence. Interactions between humans and animals when sharing an ecosystem are inevitable. Such interactions whether positive or negative in nature and impact, have happened since pre historic times owing to the fact that humans and the wild shared an ecosystem. There was a time in history animals were not just prey but equal beings and other-than-human persons. (Schmölcke and Grimm 2024) But with the changes in the human way of life and civilization, farming and domestication of animals and the propagation of certain faiths, animals became second to human. (Schmölcke and Grimm 2024) Slowly, most human settlements moved farther from animal settlements. Hunting and incidental activities were criminalised. However, it was impossible to completely demarcate territories for human and wildlife. Even in the current times and the interactions between them continue till date.

Wildlife Law in India: History and Evolution

India is known for its diverse cultural heritage characterised by an inherent harmony with nature and nature's beings. Nature and natural elements have been respected and worshipped as deities in many religions and communities in India. Animals have been revered and associated with God-entities in different parts of the country. Kautilya's Arthashastra recorded the first legal provision in India relating to environment during the Mauryan period. (Rajak and Chatruvedi 2023) The first documented conservation law in India was the fifth pillar edict in the Asoka period which prohibited killing of certain birds, mammals and carnivores. (Rajak and Chatruvedi 2023) Despite invasions by various dynasties and resultant introduction of religions and cultures, the innate legacy of environmental harmony in India continued. The colonial period witnessed the company led loot of natural resources and wide disregard for wildlife featured by hunting for sport and games amongst many other activities. Efforts towards protection of wildlife did happen during the period. The Wild birds Protection Act 1887, Wild Birds and Animals Protection Act, 1912 and Madras Elephant Preservation Act 1873 are some of these endeavours. It cannot be said that there was a complete blatant disregard for wildlife protection during colonial rule however there is no doubt that trade and related issues were priorities.

Around two decades post-independence, when the global political and policy tone was set to recognise environmental concerns as valid and vital to the future of the world, a comprehensive law for wildlife called the Wildlife Protection Act, 1972 was enacted in India. The Stockholm Conference on Human Environment in 1972 where the international conversation on the protection of environment first formally began on global scale, recognized the need for environmental action and emphasized it through principles and proposed "protection/preservation" of various components of the environment. The tone set in this international initiative based on the principle of "conservation" is seen to have been manifested throughout the text of the Indian Wildlife Protection Act, 1972 which was enacted shortly after the former. It is also pertinent to note that the Indian law was enacted even before the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES) was signed in 1973. Wildlife is a concurrent subject for legislation and both the Union and States have legislative powers in respect of the subject.

The preamble to the Wildlife Protection Act, 1972, when first introduced, stated that it is “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”. There was an urgent need for ‘protection’ of wildlife which was steadily depleting at the time of formulation of the enactment. This fact reflected on the provisions greatly. The influence of the then prime minister Indira Gandhi’s romanticised view of nature cannot be ignored when the wildlife law is studied. Although the successes of forest and wildlife laws must be owed to her idealism and approaches to an extent. The global outlook on environment and wildlife however soon shifted from protection and conservation to conservation and management. This however did not find its place in the Indian law. The major amendments to the Act until recently did not re-examine the principles on which it was founded. Half a century later, the preamble of the Act was amended in 2022, which was enacted to give effect to India’s obligations under the CITES substituting the words “protection of wild animals, birds and plants” with “conservation, protection and management of wild life”. This amendment is a welcome one. However in 2023, just a year after the amendment, the IUCN SSC guidelines put forward the newest approach to the issue of human wildlife conflicts as sustainable management and coexistence. (IUCN 2023)

Statutory Provisions on Human Wildlife Conflicts: An Analysis

Human Wildlife Conflict is not defined in the Wildlife Protection Act of 1972 or any statutory provision for the time being in force in India. In 2021, the Central Ministry of Environment Forest and Climate Change released the National Human Wildlife Conflict Mitigation Strategy and Action Plan. (MoEFCC 2021) It aims to address the increasing incidents of conflict between humans and wildlife, which pose threats to both rural livelihoods and biodiversity conservation. The first phase of implementation of the National plan is intended to be from 2021 to 2026, which is to be a capacity building phase. Pursuant to this some states in the country have come up with their own conflict mitigation plans. These are however just guiding documents and have no direct enforceability in a conflict situation.

The statutory provisions in the Wildlife Protection Act that have direct applicability in human wildlife conflict situations are sections 9, 11, 12 and 62. Section 9 prohibits hunting of wild animals listed in Schedules I and II of the Act, except as laid down under sections 11 and 12. Hunting is permitted under the law in very specific and limited circumstances. Section 11 permits killing of a wild animal in the following scenarios:

1. If any schedule I wild animal has become dangerous to human life or property including standing crops
2. Any animal is so diseased or disabled beyond recovery
3. Killing or wounding any wild animal in good faith for self-defence or defence of others unless the person was committing any act in contravention of the Act or rules

In the first two instances mentioned above the Chief Wildlife Warden is empowered to permit hunting in writing with reasons clearly stated. Such permissions must be issued subject to provisions of chapter IV (Protected areas and related provisions). Additionally kill orders are to be issued only in cases when the animal cannot be captured, tranquilised or translocated. In case an animal is captured, the section mandates that it be kept captive only in case it cannot be rehabilitated in the wild. The procedure for capture and translocation of the animal must be in such manner as to minimise trauma to the said animal.

Section 12 provides for a similar permit to be issued for hunting for the purposes of education, scientific research and scientific management of any wild animal. The scope of these activities is also laid down in the section along with the other conditions that apply.

Section 62 lays down that the Central government can declare any wild animal from schedule II as vermin for specified period. Vermin are generally small wild creatures which carry diseases, destroy crops and cause nuisance. During the period of validity of vermin declaration such wild animal can be culled legally without restriction. Section 61 vests the power to add, delete or amend schedules or entries in schedules. Pursuant to this, the in 2022, schedule V that contained vermin species has been omitted from the Act with effect from 2023. On the ground level how a human animal conflict is mitigated rests on the respective State government machinery and mechanisms. Some states like Kerala have appointed Rapid Response Teams comprising of forest officials in different forest divisions for the purpose in light of the increasing instances of human wildlife conflicts. However, there are no government issued standard operating procedures or guidelines specifically designed to be adopted in a conflict situation for these teams as of now. The trained officials are left to rely heavily on their discretion and experience resulting in inconsistencies in operational procedures. There is no differentiation made in human wildlife conflict on the basis of the type of animal involved in the Wildlife Protection Act. The danger posed by a snake, a tiger or an elephant is the same until such wild animal is harmed, in which case the gravity and imminent risk of danger is called into question to evaluate whether the human involved is justified in the harming the wild animal.

The inherent bias in the Indian wildlife law is that it is a ‘conservation’ legislation. The foundational philosophy of the norms therein being ‘protection of wildlife’ from harm and human intervention, the effect of application of these norms cannot be expected to protect human lives and rights in a human wildlife conflict. The focus on conservation alone often sidelining the nuanced relationships between humans, wildlife, and ecosystems is a drawback and a possible long term driver of increase in human wildlife conflicts. This bias stems from a protectionist philosophy, where wildlife is preserved primarily for its intrinsic or ecological value, often at the expense of local communities. Indian wildlife laws, such as the Wildlife Protection Act of 1972, prioritize species protection and habitat preservation over human livelihoods, reflecting a conservationist paradigm that treats nature as separate from human existence.

Philosophically, this approach echoes the sentiments of thinkers like Immanuel Kant, who argued for the inherent worth of nature, independent of human utility. "We can judge the heart of a man by his treatment of animals," Kant stated, underlining an ethical duty toward non-human life. However, this view can lead to a disconnect between humans and the natural world, promoting a rigid form of conservation that may neglect the lived realities of indigenous and local communities. In contrast, Aldo Leopold’s “land ethic” philosophy advocates for a more holistic understanding of conservation, where humans are part of the land community. "A thing is right when it tends to preserve the integrity, stability, and beauty of the biotic community," Leopold wrote, implying that conservation must integrate human needs and ecological health. Indian wildlife law’s focus on ‘conservation’ often overlooks this balance, marginalizing indigenous knowledge and practices that promote coexistence, thus failing to fully address the socio-ecological dynamics at play.

This philosophical bias underscores a need for more inclusive, community-driven conservation approaches that recognize the interdependence of humans and wildlife.

A five-decade old conservational agenda necessitated by depletion of wildlife is still the sole legislation applicable in case of a human wildlife conflict. At the time of that legislative endeavour, there understandably did not exist a need to draft for a contingency in which animals would cause conflict in a human settlement outside of a protected area. The fifty-year impact of wildlife conservation has to be assessed and necessary changes must be brought about in the law to incorporate human wildlife conflict

mitigation strategies. Focus must be shifted from a strict conservation to wildlife management. India has not adequately explored the economic possibilities of wildlife management. For instance, in Canada in the Inuit community, polar bears are legally killed in guided hunts and the revenue generated sustains the members of the community. (“Economic Importance | Polar Bears in Canada,” n.d.) Culturally and socially, polar bears are vital to the community and the country but also a source of income in that area where other options are scarce. The emphasis on economic and social benefits of wildlife management is demonstrated through many such examples from across the world. Strategic and sustainable use of wildlife and wildlife management are necessary for sustainable development. The recent decision by Namibia to kill over 700 wild animals including elephants, zebras and hippos to sustain its people is a testament to the fact that sustenance triumphs wildlife conservation ultimately. The parameters to assess the effectiveness of any law must include attainment of social justice. Human wildlife conflicts must not be viewed from an eco-centric vantage point alone, rather a mixed approach including anthropocentric views with due regard for ecological preservation and restoration. It is evident that conservation alone will not aid in the sustainable development of the nation and that conservation coupled with wildlife resource management will yield better results in terms of achieving ecological balance and sustainable growth.

Human wildlife conflict being of different nature in different parts of the country, an umbrella approach cannot be expected to be effective. The causes and impact of conflicts in various parts of the country are different. While depletion of forest cover is a contributing factor in some places, increase in number of particular species results in conflict elsewhere. Damage, extent and consequences of conflicts are also different in different places. This difference in cause and impact highly affects the transferability of methods of conflict prevention and mitigation. The law and mechanism for conflict prevention and mitigation must take into consideration the temperament of the land, forest, people and the wild flora and fauna. In this context indigenous participation and public involvement play crucial roles in conservation and human-wildlife conflict management. The Indian Wildlife Laws do not incorporate either of these. Indigenous communities, who often live in close proximity to wildlife, possess invaluable ecological knowledge that has been passed down through generations. Their understanding of local ecosystems, animal behaviours, and sustainable resource use is vital for creating effective conservation strategies. Incorporating indigenous perspectives not only enhances the effectiveness of wildlife management but also upholds their rights and fosters inclusive governance. Public involvement, on the other hand, ensures a broader societal commitment to conservation efforts. Engaging local communities in decision-making processes helps build a sense of ownership and responsibility for preserving biodiversity. Community-led initiatives often focus on preventive measures, such as habitat restoration, awareness campaigns, and alternative livelihood programs, which help mitigate the negative impacts of human-wildlife interactions. Moreover, participatory approaches empower marginalized groups by giving them a platform to voice their concerns and contribute to sustainable solutions. Indigenous knowledge combined with community participation and scientific approaches, results in a more holistic, culturally sensitive, and locally adaptive framework for conservation. This synergy fosters greater tolerance for wildlife, reduces conflicts, and promotes harmonious coexistence between humans and nature in the long term.

Indian Environmental governance especially in context of human wildlife conflicts must become more representative of and responsive to diverse needs of local communities. Inclusive governance in environmental matters is essential for creating fair, effective, and sustainable solutions. Environmental challenges, like biodiversity loss and human-wildlife conflicts, impact various stakeholders differently, particularly marginalized and indigenous communities. Inclusive processes ensure that conservation

policies consider local knowledge, cultural values, economic vulnerabilities and social equity, fostering community support and enhancing policy outcomes. Moreover, this approach strengthens democracy by empowering people to actively participate in decision-making, promoting solutions that are environmentally sound, socially just, and politically legitimate.

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