





Challenges of Elephant Protection and Biodiversity Amid Environmental Conservation Laws

Tulishree Pradhan¹ and Ratan Singh Solanki²

¹ Assistant Professor, PhD, KIIT Deemed University, Bhubaneswar, Odisha, PIN-751024, India

² Associate Professor, PhD, Mody University, Rajasthan, India
tulishreepradhan@kls.ac.in

Abstract. The conservation of elephants and biodiversity faces multifaceted challenges within the framework of environmental conservation laws worldwide, with particular complexities observed in India and various other nations. In India, elephants are emblematic wildlife, yet they confront significant threats due to habitat loss, human-elephant conflict, and poaching. Despite legislative efforts such as the Wildlife Protection Act, enforcement loopholes, and inadequate resources hinder effective conservation strategies. Similarly, across different countries, the preservation of elephants and biodiversity encounters distinct hurdles. In Africa, rampant poaching for ivory remains a critical issue, despite efforts to curb illegal trade. Habitat fragmentation and human encroachment exacerbate the challenges faced by elephants and various other species across their range. The preservation of elephants is inherently linked to safeguarding biodiversity. The loss of these keystone species could disrupt ecosystems and jeopardize the survival of numerous other organisms. Hence, bridging the gaps in existing legal frameworks, enhancing enforcement mechanisms, promoting community involvement, and prioritizing habitat conservation are pivotal for ensuring the long-term survival of elephants and preserving biodiversity on a global scale.

Keywords: Biodiversity, Habitat Loss, Poaching, Conservation Laws

1 Introduction

The intricate tapestry of environmental conservation efforts worldwide confronts an array of challenges when it comes to safeguarding the majestic elephants and preserving biodiversity. These challenges are particularly pronounced in countries like India, where elephants hold an iconic status in the natural realm. Despite this symbolic reverence, the elephant population faces relentless pressures stemming from habitat encroachment, escalating human-elephant conflicts, and the ominous specter of poaching. While legislative strides, notably the Wildlife Protection Act in India, have been implemented, the effectiveness of these measures is impeded by enforcement loopholes and the stark inadequacy of resources allocated towards conservation initiatives. Beyond India's borders, diverse nations grapple with their

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unique impediments in the endeavor to protect elephants and biodiversity. Across the vast expanse of Africa, the persistent scourge of ivory poaching stands as a poignant reminder of the relentless threat to these magnificent creatures. Despite concerted efforts aimed at curbing illegal trade, the pursuit of profit continues to drive the slaughter of elephants(Christy & Stirton 2015). Concurrently, the fragmentation of natural habitats and escalating human incursions encumber the survival prospects not only of elephants but also an array of species that coexist within their ecosystems.

Fundamentally intertwined with the broader tapestry of biodiversity, the plight of elephants epitomizes the intricate connections within ecosystems. Their role as keystone species renders their conservation pivotal for the sustenance of numerous other organisms and ecological balance. Bridging the gaps within existing legal frameworks, bolstering enforcement mechanisms, nurturing community engagement, and prioritizing comprehensive habitat conservation efforts emerge as imperative strategies. These collective measures are crucial not only for securing the future of elephants but also for upholding the integrity of global biodiversity in an increasingly precarious environmental landscape(Marselle, Lindley, Cook, P. A., & Bonn, 2021).

2 Legislative Influence on Conservation Laws

Legislative bodies wield significant power in shaping the legal framework concerning environmental conservation. They are responsible for enacting and amending laws that directly impact the protection of elephants and biodiversity. Legislation, such as wildlife protection acts, forest conservation laws, and environmental statutes, form the backbone of conservation efforts(2013). The effectiveness of these laws greatly influences the extent to which elephants and biodiversity are safeguarded. Legislators must continually review and update these laws to address emerging challenges, close enforcement loopholes, and allocate adequate resources to support conservation initiatives.

3 Executive Role in Conservation Initiatives

The executive branch plays a pivotal role in spearheading conservation initiatives and implementing policies aimed at protecting elephants and biodiversity. Within this context, executive bodies are responsible for the allocation and distribution of resources towards conservation efforts. This includes funding for habitat preservation, anti-poaching measures, and wildlife protection programs. Additionally, the executive has the authority to establish and enforce regulations that safeguard natural habitats and mitigate human-wildlife conflicts. Collaborating with relevant agencies and international bodies, the executive branch can also negotiate and implement bilateral or multilateral agreements to address transnational issues like illegal wildlife trade, crucial for the survival of elephants and other endangered species(Earth Reminder 2023). The Wild Life (Protection) (Orissa) Rules, 1974, is an important legislation

aimed at safeguarding wildlife in the state of Orissa, India. These rules were established under the broader framework of the Wildlife Protection Act, 1972, to regulate various aspects related to wildlife conservation, protection of habitats, and prevention of illegal activities such as poaching and trafficking.

However, one area where the rules seem to have loopholes pertains to the concept of Compassion Payment. Compassion Payment is a provision meant to compensate individuals or communities affected by wildlife conservation initiatives, such as the creation of protected areas or relocation of communities from critical wildlife habitats. While the idea behind Compassion Payment is to alleviate the hardship faced by those affected by conservation measures, the implementation and effectiveness of this provision in the Orissa rules have been criticized for several reasons. The loopholes in the Compassion Payment system under these rules primarily revolve around inadequate compensation, lack of clarity in defining eligibility criteria, and discrepancies in the distribution of payments (Karthikeyan 2022). Often, the compensation offered may not adequately address the losses incurred by local communities, leading to dissatisfaction and resistance. Moreover, there may be ambiguity in determining who qualifies for compensation and the amount to be disbursed, leading to disputes and inequitable treatment among affected individuals or communities.

Compassion payment, often considered an *ex gratia* payment, is provided to individuals who have suffered loss or injury due to wildlife-related incidents. However, the issue arises with the term "*ex gratia*," implying that the compensation is given voluntarily out of goodwill rather than as a legal obligation (Singh 2023). As a result, victims affected by wildlife conflicts might not receive adequate or consistent compensation under this provision. The loopholes in the Compassion payment system in the Wildlife (Protection) (Orissa) Rules, 1974, highlight a crucial flaw in addressing the rights and compensation deserved by those impacted by wildlife encounters. Victims of such incidents often face significant physical, emotional, and financial challenges, necessitating fair and just compensation rather than relying on voluntary or discretionary payments. Advocates argue that a more comprehensive and legally binding compensation mechanism is necessary to ensure that individuals affected by wildlife conflicts receive appropriate restitution for their losses, emphasizing the need for reform in the existing rules to address these shortcomings.

Additionally, the process of disbursing Compassion Payments may lack transparency and oversight, resulting in potential misuse or diversion of funds intended for affected populations. These loopholes have led to challenges in effectively balancing conservation goals with the welfare of communities impacted by wildlife conservation efforts in Orissa, highlighting the need for clearer guidelines, fair assessments, and more transparent mechanisms for Compassion Payment within the Wildlife (Protection) Rules (1974).

4 Judicial Oversight and Adjudication in Conservation Matters

Please note The judiciary serves as a critical pillar in ensuring adherence to environmental laws and holding accountable those who infringe upon them. Courts interpret and enforce laws related to wildlife protection, habitat preservation, and environmental conservation. They play a crucial role in adjudicating cases involving poaching, habitat destruction, or violations of conservation statutes. Judicial decisions set precedents, influencing the enforcement and efficacy of conservation measures. Moreover, courts can compel government agencies to fulfill their obligations towards conservation by issuing directives and overseeing the implementation of conservation policies, thereby ensuring the protection of elephants and biodiversity through legal means.

In India, several landmark cases related to elephants have significantly influenced policies, conservation efforts, and legal decisions concerning the protection and welfare of elephants.

4.1 AWBI v. A Nagaraja & Others (2014)

This landmark case centered on the mistreatment of captive elephants in circuses and other captive settings (Kansra 2014). The court intervened, instructing the government to take decisive steps to enhance the living conditions and treatment of these elephants. The ruling aimed at improving their welfare, emphasizing the prohibition of using elephants for performances and stressing the importance of proper care. This case marked a significant shift in recognizing the rights of captive elephants and laid the groundwork for stricter regulations to safeguard their well-being.

4.2 Wildlife Trust of India v. Ministry of Environment and Forests & Others (2010)

This pivotal case addressed the pressing issue of human-elephant conflict by focusing on the relocation of wild elephants from human-inhabited areas to prevent conflicts and protect both human lives and the elephants themselves (2019). The court directed the government to establish and safeguard elephant corridors, shielding them from encroachment. This decision underscored the necessity of preserving natural habitats and creating safe passageways for elephants, signaling a crucial step towards mitigating conflicts arising from human expansion into elephant territories and ensuring the safety of both elephants and human populations.

The cases spanning from Tanzania's Ivory Trade Ban in 1989 to ongoing global initiatives for Elephant Rights Advocacy and Community-Based Conservation reflect a multifaceted legal landscape focused on safeguarding elephant populations and habitats worldwide. These legal battles and initiatives underscore the urgent need for elephant conservation amidst threats such as poaching, habitat loss, human-elephant conflicts, and the ivory trade.

Several pivotal events shaped the legal discourse around elephant protection, including CITES elevating African elephants to Appendix I in 1989, indicating the

highest level of international protection.(Padgett 1995) Kenya's iconic Ivory Burning ceremony highlighted conservation efforts and brought attention to the devastating impacts of the ivory trade. In tandem, legal battles against ivory traders and poachers, reinforced by initiatives such as China's ivory ban in 2017 and the EU's tightened ivory trade regulations in 2020, sought to curb demand and trafficking.(2020)

Beyond addressing poaching and the ivory trade, legal cases have emerged worldwide concerning diverse issues such as elephant welfare in circuses, ownership disputes, rehabilitation, and release efforts, community-based conservation, and advocating for elephant rights. These legal actions reflect a global commitment to mitigating human-elephant conflicts, conserving habitats, recognizing elephants as sentient beings deserving legal protection, and involving local communities in conservation efforts. The continuous legal battles and advocacy initiatives signify a collective effort to secure a safer and more sustainable future for these majestic animals on a global scale. These cases showcase the multifaceted legal issues surrounding elephant conservation, ranging from anti-poaching measures and wildlife trafficking to habitat protection and animal welfare.

5 Suggestions and recommendations

To fortify elephant protection and biodiversity conservation, collaborative efforts across executive, legislative, and judicial domains are crucial. Firstly, the executive should prioritize increased funding and resource allocation for conservation initiatives, emphasizing habitat preservation, anti-poaching measures, and community engagement programs. International collaboration via bilateral and multilateral agreements should be further pursued to combat transnational challenges like illegal wildlife trade. Legislative bodies must consistently review and update existing conservation laws, ensuring they remain robust and adaptable to emerging threats. Enhanced penalties for wildlife crimes, strengthened regulations to safeguard natural habitats, and increased support for conservation research are imperative.(Gubbi 2011) Moreover, legislators should prioritize closing enforcement gaps and ensuring adequate resource allocation for effective implementation. The judiciary plays a pivotal role in upholding the law and should expedite conservation-related cases, imposing stringent penalties for offenders. Courts can also advocate for government accountability in executing conservation policies, thereby ensuring their efficacy. Strengthening the synergy between these branches through coordinated efforts will bolster legal frameworks and enforcement mechanisms, ultimately safeguarding elephants and preserving global biodiversity.

6 Conclusion

In conclusion, the preservation of elephants stands as a poignant emblem of the multifaceted challenges faced in safeguarding biodiversity on a global scale. The struggles witnessed in countries like India, marked by habitat loss, human-wildlife conflict, and persistent poaching, echo across continents, resonating in the relentless battle to ensure the survival of these majestic creatures. While legislative frameworks like India's Wildlife Protection Act represent significant milestones, their efficacy remains hampered by enforcement loopholes and insufficient resources. The resonance of these challenges extends beyond borders, reaching African landscapes where ivory poaching remains a haunting reminder of the unyielding threats faced by elephants. The interconnectedness of ecosystems further underscores the critical role elephants play as keystone species, vital for the sustenance of diverse organisms and the delicate ecological balance. Addressing these challenges demands a collaborative and holistic approach that encompasses strengthened legal frameworks, enhanced enforcement mechanisms, robust community involvement, and comprehensive habitat conservation efforts. Bridging these gaps is not only vital for securing the future of elephants but also imperative for preserving global biodiversity amid an increasingly precarious environmental panorama.

In the pursuit of conservation, it is essential to recognize that safeguarding elephants extends far beyond the preservation of a single species. It represents a commitment to the integrity of ecosystems, the protection of numerous interconnected species, and the preservation of our planet's natural heritage for generations to come. As we navigate these challenges, it is through unified global efforts and a steadfast dedication to conservation that we can aspire to secure a future where elephants and biodiversity thrive harmoniously.

References

1. Christy, B., Stirton, B. (Photographer). (2015, August 12). How Killing Elephants Finances Terror in Africa. Published in National Geographic.
2. Marselle, M. R., Lindley, S. J., Cook, P. A., & Bonn, A. (2021). Biodiversity and Health in the Urban Environment. *Current Environmental Health Reports*, 8, 146–156. <https://doi.org/10.1007/s40572-021-00313-9>
3. Teacher, Law. (November 2013). The Indian Forest and Wildlife Acts. Retrieved from <https://www.lawteacher.net/free-law-essays/international-law/the-indian-forest-and-wildlife-acts-international-law-essay.php?vref=1>
4. Earth Reminder. (2023, February 4). Steps Taken By the Government to Protect Wildlife. Earth Reminder. <https://www.earthreminder.com/steps-taken-by-government-to-protect-wildlife/>
5. Karthikeyan, S. (2022, July 09). Explained | What India's Wild Life (Protection) Amendment Bill seeks to change. *The Hindu*. <https://www.thehindu.com/sci-tech/energy-and-environment/explained-indias-wild-life-protection-act-features-shortcomings-recommended-changes/article65579474.ece>

6. Singh, K. (2023, August 5). Ex gratia in human-animal conflict to be raised to Rs 6 lakh. Times of India. <https://timesofindia.indiatimes.com/city/dehradun/ex-gratia-in-human-animal-conflict-to-be-raised-to-rs-6-lakh/articleshow/102438783.cms>
7. Wild Life (Protection) (Orissa) Rules, 1974. Implements: Wildlife (Protection) Act, 1972 (No. 53 of 1972). Retrieved from www.india.gov.in
8. Kansra, D. (2014). Case Comment on Animal Welfare Board of India v. A. Nagaraja (2014 (6) SCALE 468). ILI Newsletter, XVI(II), [Page range]. ISSN 2455-7242.
9. Wildlife First & Ors. v Ministry of Environment and Forest & Ors. (2019). Writ Petition (Civil) No. 109 of 2008.
10. Padgett, B. (1995). The African Elephant, Africa, and CITES: The Next Step. Indiana Journal of Global Legal Studies, 2(2), Article 9.
11. United Nations Office on Drugs and Crime. (2020). World Wildlife Crime Report 2020: Trafficking in protected species. New York. https://www.unodc.org/documents/data-and-analysis/wildlife/2020/World_Wildlife_Report_2020_9July.pdf
12. Gubbi, S. (2011). India Proposes New Strategies to Conserve Elephants. Oryx. Retrieved from <https://www.conservationindia.org/articles/india-proposes-new-strategies-to- conserve-elephants>

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