

Protected areas of the wildlife protection act



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Wildlife and environment is an integral part of life. Protection of Wildlife and Environment has been present from the pre-colonial and the colonial times. During the 3rd century, Asoka, king of Magadha, passed a law for the protection of wildlife and environment. During colonial times, the British enacted India's first codified law Wild Birds Protection Act, 1887 and the Wild Birds and Animals Protection Act, 1912. The parliament passed legislation on 9th September, 1972 and is known as Wildlife Protection Act, 1972. This act was enacted under the Article 252. This is an Act " to provide for the protection of wild animals, birds and plants] and for matters connected therewith or ancillary or incidental thereto." Wildlife is defined in the act under section 2(37).

The wildlife was under the state list according to the constitution but by the 42nd amendment it was transferred to the concurrent list in 1976. By 1991 the act was applicable to whole of India (except Jammu and Kashmir). This has helped the central government to increase its role in developing the national wildlife policy. This act provides protection of wildlife and preservation of the environment regardless of its location. The protection is based on two approaches – species approach and the ecosystem approach. The National Wildlife Board was legislated in the 2002 amendment.

Environmental protection is every citizen's right according to Article 51A (g). The protection of forests, wildlife animals and birds were shifted from the state list to concurrent list. These were entries 17 A and 17 B respectively.

PROTECTED AREAS

INTRODUCTION

Certain areas are protected for the conservation of wildlife. These areas are known as Protected Areas. Protected areas are designated based on their level of protection and the laws binding the country. These areas are protected based on the environmental and cultural values.

According to IUCN, a protected area is, “ A clearly defined geographical space, recognised, dedicated and managed, through legal or other effective means, to achieve the long-term conservation of nature with associated ecosystem services and cultural values.” Marine protected areas also are included in the list of protected areas.

Under the WLPA, the state government can declare an area of flush or adequate ‘ ecological, faunal, floral, geomorphological, natural or zoological significance’ a sanctuary or a national park. Public entry is banned in a protected area and the destruction of the habitat along with its wildlife is prohibited and can result in serious consequences.

Protected areas are necessary for conservation of biodiversity and also the preservation of the existing environment. These areas help in balancing ecological cycles and other processes in the environment. This results in protection of watersheds, soils and protects humans from natural disasters.

Many of these areas are vital for the survival for indigenous or local people whose life depends on the sustainable use of resources of that area. They serve as backbone for the local communities. These areas are a physical gateway to hectic work schedule and help attain calm and peace. Certain <https://assignbuster.com/protected-areas-of-the-wildlife-protection-act/>

protected areas are important for research and education and also apply to sustainable land use. The most important aspect of these areas is the tourism, which contributes to the economy.

The importance and the significance of protected areas are realized in the Convention of Biodiversity (CBD) (Article 8). Recently protected areas are facing threats because of climate change and pollution. One of the main reasons that have lead to the degradation of these areas is lack of political support and inadequate financing. The only body that has been actively involved in the protection of these areas is the WCPA.

IUCN PROTECTED AREAS MANAGEMENT CATEGORIES

WCU, founded in 1948 is one of the 6 commissions of IUCN. There are certain guidelines that offer help in classifying the protected areas management categories. The original intent was to provide an understanding of protected areas both within and outside the country.

It has categorized certain regions as protected based on the management objective and has classified protected areas into 8 distinct categories:

a. Strict Nature Reserve – scientific use

b. Wilderness Area – wilderness protection

National Parks – ecosystem protection and recreation

Natural Monument – conservation of specific natural features

Habitat/species Management - maintained for conservation through management intervention

Protected Landscape/Seascape - landscape/seascape protection and recreation

Managed Resource Protected Area - sustainable use of natural ecosystem

According to the IUCN survey, 30, 000 protected areas around the world covers 13, 250, 000 sq. km by 2000. Barely 1% of world's seas are protected.

PROTECTED AREAS IN INDIA

The protected areas in India cover 156, 700sq. km which implies that approximately 4. 95% of the total surface area. It has been estimated that there are nearly 5000 villages in protected areas (Shyam Divan and Armin Rosencranz, 2001). In India protected areas have been present from 1935. India has the following as protected areas based on the IUCN classification:

National Parks

Wildlife Sanctuaries

Biosphere Reserves

Conservation Reserve and Community Reserve

Village Forests and Panchayat

Private Protected Areas

Tiger Reserves

The country's wilderness has been under threat due to rapid urbanization and industrialization. The number of protected areas has increased over the years. In 1988 there were 54 national parks and 372 sanctuaries covering about 3.34% of the country's geographical area. In 2002, India has a total of 578 wildlife protected areas which accounts to about 4.70% of the country's geographical area (wildlife institute of India).

The WII has recommended the government to increase the number of wildlife protected areas to 870 which includes 163 national parks and 707 wildlife sanctuaries and the approximate geographical area used will to about 5.74%(Rodgers, Panwar and Mathur, WII)(fig. 1). Certain areas in India have very high percentage of protected areas. This is due to the conditions that are available for declaration of a protected area. (Table 1 and Table 2).

NATIONAL PARKS

A National park is a reserve of natural lands that is declared by government. It is declared and created for recreation purposes and protection and preservation of nature. National parks are declared under category II type of protected areas by IUCN. There are 7000 national parks worldwide. The largest national park in the world is the Northeast Greenland National Park. National parks are declared under section 35, 38 (2) and 66 (3). For an area to be declared as a national park it has to undergo a series of stages:

Intention notification

Determination of rights

Proclamation notification

Inquiry

Acquisition of rights

Final notification

The above procedure need not be followed if the rights of the land have extinguished and if the land is under the state government. India's first national park was Hailey National Park, later renamed as Jim Corbett National Park. This park was established in 1935. There are 96 national parks as of April 2007 in India. National parks hold a higher authority and a high degree of protection than sanctuaries. The rules and regulations that bind national parks are stricter. A national park can be set up within or around a sanctuary.

WILDLIFE SANCTUARIES

Wildlife sanctuaries are areas declared for the protection and restoration of wildlife (endangered species). It is created through government regulations. A sanctuary is actually set up by the central government under the section 38. Only when the state government passes power of authority to the central government can a sanctuary be set up. A sanctuary cannot be created within an existing sanctuary. These areas are declared under Section 26A, 38(1) and 66(3). There are certain conditions that are required for setting up a sanctuary (section 18). These come under IUCN category IV. The main objective is to maintain and conserve species in a habitat.

There are about 489 wildlife sanctuaries covering 3.56% geographical area in India. By the legislation passed by the 2002 amendment the construction of lodges, safari trips, hotels need approval of National Board. The procedure is same as that of declaring a national park. The control of these sanctuaries is under the Chief Wildlife Warden (section 33). In India, there are about 28 tiger reserves out of the total wildlife sanctuaries. These reserves are mainly for the protection and the conservation of tigers. Therefore these reserves are species specific. Certain sanctuaries are named exclusively as bird sanctuaries, E. g. Vedanthangal Bird Sanctuary in Tamil Nadu. There are certain restrictions after a land or area has been notified and declared as WS (Sections 27, 29, 30, 31, and 32).

BIOSPHERE RESERVES

These reserves were established by UNSECO in 1973-74 under the Man and Biosphere programme (MAB). This programme aims at bringing the balance between use and conservation of resources. Its main objective is in research and scientific outlook in the present's world. In India, there are over 14 Biosphere Reserves as of 25th October, 2007 (Table 3). Biosphere reserves are natural landscapes that extend over large areas. They can be terrestrial or marine or combination of both. These reserves are perfect paradigm for showcasing the existing harmony between man and nature. The reserves help in conservation of the habitat along with the species and also help in the economic development. These biosphere reserves actually have unique features and are in very good condition. They come under Category V of IUCN classification.

In India, a National Biosphere Reserve Programme was established in 1986. The main criteria for declaring a biosphere reserve is that the area should contain rare and endangered species of flora and fauna. It should be an area that is protected and is a bio geographical unit that is extensive. These ecosystems actually are like alternate research models that provide educational information. A biosphere reserve has a layered structure that contains 3 important zones:

Core zone

Buffer zone

Transition zone

The core zone actually consists of the target species that need to be protected and conserved. This zone is legally protected from human interference. The Buffer zone is a middle zone that is adjoined to both the core and transition zone. In this zone certain activities like recreation, education, tourism and the restoration of area. In this area, if human activities are natural then these activities are allowed. These activities are only allowed if they cause minimal damage to the environment. The Transition zone is the outermost zone. In this zone all activities along with conservation and administration are carried out in harmony. This zone has no limits on human activities. In this zone there is huge economic revenue that is derived from tourism and management practices.

The biosphere reserves are established under the legal frameworks that have been legislated under WPA, 1972. In the process of declaring an area

as biosphere reserve the central as well as the state government have roles and responsibilities to be carried out. The financial support is provided by the central government whereas the management and administration is the duty of the state government. The Indian National Man and Biosphere committee actually is constituted by central government and finds new sites, committees, policies, programmes and other activities for the betterment of the reserve. The ministry proposed certain areas for getting approved into the World Network of Biosphere Reserves, in November 2001, the International Coordinating Council (ICC) of Man and Biosphere programme of UNESCO designated and approved of Sunderbans (West Bengal) and the Gulf of Mannar (Tamil Nadu) into the world network. The Nilgiri was already included in 2000.

IMPLEMENTATION OF THE PROVISIONS PROVIDED BY WLPA, 1972

The CEL - WWF India was launched in 1993. This organization took active legal actions in the country. They have fought legal actions for the protection and conservation of wildlife and environment. They came into forefront mainly because of the Bhitarkanika case, Narayan Sarovar case, and intervention in Delhi ridge. Through research and investigation it came to light that the provisions of the WLPA, 1972 were not being implemented. CEL - WWF filed a civil writ petition in May, 1995 in SC for protection and development of protected areas along with the wildlife. The SC accepted the petition and issued notices to every State Government and the Union of India on February, 1997.

During the course of the case hearing the SC has passed several contempt notices to the state and union officials to carry out their duties with honour and adhere to the orders of the court. In March, 1997 the Indian board of wildlife (IBWL) was ordered to submit a summary and report on the plight of the protected areas in India and its progress after the SC had passed the orders for strict surveillance. The states were requested to submit a report on its activities and the steps they had taken for the betterment of these protected areas. The SC also noticed that some states had WW while some didn't. Those states who had appointed a WW were only for certain areas.

In response to the SC, the MoEF responded that the meeting of the Previous IBWL have not attended a meeting for the last eight years. This showed laxity at the national level and the action of the highest authority. This board was reconstituted in 1996 and appointed the Prime Minister as the Chairman. At the state level the states had not been adhering to the court orders and were not alert enough to file their replies. Even though it was laxity at the state level and the SC extended the deadline of the submission of the report and granted them another two months to file their answers. Finally, the SC accepted that all the States and Unions of India had constituted their wildlife advisory boards and confirmed the body. This was done in January, 1998.

One of the main issues regarding implementation was about the existing tiger population in India. The court ordered to bring to notice about the population of these cats. By a report submitted by the MoEF stated that the population of tigers had not declined since 1973. But the overall decline of population was due to the fragmentation of tiger habitats.

DE – RESERVATION OF PROTECTED AREAS

Some sanctuaries face a threat of being de - reserved by the state actions. The shield provided by the WLPA, 1972 can be removed by the state wildlife advisory board (state board) in case it's not necessary. But the order passed by the SC directed the state governments to pass on a proposal of denotification or de - reservation of an area to the NBWL for its opinion and pass it on to the Legislative Assembly. According to the 2002 amendment of WLPA the NBWL has the power to alter PAs over the legislative assembly. Certain cases have already happened like, 1994 the Boriavli National Park was trimmed so that the slum people who resided near the national park would not be evicted. But in case of tiger reserve, it cannot be de - notified by a state board. But a tiger reserve can be de - reserved if it has the approval of the TCA and the National Board for Wildlife. The Forest Conservation Act, 1970 (FCA) actually restricts the authority of the state to de-reserve forest areas. According to the SC order dated 13. 11. 2000 the state requires prior permission for the diversion or de-reservation of forest land in national parks.

STATE LEVEL RESPONSES ON PROTECTED AREAS – TAMIL NADU

In Tamil Nadu the state board was constituted on 14. 09. 1995 and again reconstituted on 24. 02. 1997. The state appointed 10 WW to look after the implementation of the WLPA. Tamil Nadu was one the few states that actually interpreted the Supreme Court orders correctly. The state of Tamil Nadu also informed the Supreme Court that there are 6 WW and a Deputy Director for the Project Tiger. A district officer has also been appointed to

look after the implementation of the WLPA properly in various national parks and wildlife sanctuaries. The Honorary Wildlife Warden (HWW) is appointed for the National parks and the Sanctuaries. They are appointed for tenure of 3 years. If the person appointed wants to resign before the period is completed then a notice of 3 months has to be given prior to resignation or cancellation of appointment. Many of the protected areas have been notified under the section 16 of the Tamil Nadu Forest act, 1882 and with reference to reserved forest the areas that were proclaimed and notified under the Tamil Nadu forest act, 1882 will enjoy a status equivalent to those that have been notified under the section 26A or 21, WLPA, 1972. Certain sanctuaries and national park come under the non – reserved forest areas. These areas are proclaimed under the section 21 of WLPA.

An order dated 20. 03. 1998 stated the immunization of all wildlife in NPs/WSs in every state. The state director of animal husbandry was given the authority to carry out the instructions at the district level. The District Forest Officers were instructed the vaccination of all wildlife in the 5 km radius of Protected Areas. Another order dated 20. 03. 1998 stated the registration of arms and issuance of licences. The State Director General of Police was instructed to comply with the order. The wildlife protection (Tamil Nadu) Rules, 1975 was framed. The Rule 33 is about the registration of arms in the vicinity of NPs/WSs. The DGPs and CWLWs are requested to take action in case of non – compliance.

Tamil Nadu has in total 5 NP and 8 WS, 12 BS, 4 Elephant reserves, 3 Tiger Reserves and 3 Biosphere Reserves (Table 3) which are under the UNESCO's MAB programme. Almost one – sixth of Tamil Nadu is covered with forest.

The state ranks in the 11th position in reference to total forest cover among the Indian states and Union Territories and ranks 13th position in reference to total recorded forest cover. Tamil Nadu ranks 14th position with reference to protected areas.

The diversity of flora and fauna are a boon to the state and need to be conserved and managed with great care since the extent of diversity is beyond our imagination. Forests and wilderness of the state actually defines the state. According to the 2008 census, tiger population increased in the state of Tamil Nadu. This was achieved due to strict and mandatory measures passed by the state board. For the development, conservation and administration activities the state has sanctioned and invested a huge sum of money which has proved to be successful to an extent.

THE SARISKA CASE: TARUN BHARATH SANGH, ALWAR Vs UNION OF INDIA

Tarun Bharath Sangh is a non - governmental organization (NGO) whose concern was about the rural development of Rajasthan. The main issue of concern was the availability of water resource. Illegal mining activities were being carried out in Alwar district of Rajasthan that resulted in shortage of water. The organization launched the Sariska Case. The area that was under scrutiny is now what is known as the Sariska Tiger Sanctuary. This Tiger Sanctuary is a species specific Protected Area and comes under the Tiger Reserves category and it is an exclusive hunting area for the Rulers of the Quondam, Alwar state.

This NGO approached court petitioning that the illegal mining activity that was going on in the Alwar district of Rajasthan needs to cease in the interest of environment and nature to sustain. They pointed out that the mining is being carried out in a protected area that has been declared by the government. The area is declared as a tiger reserve under Rajasthan Wild Animal and Birds Protection Act, 1951. This area is also declared as a WS and NP under WLPA, 1972. Under these acts such activities in WS or NP or a tiger reserve is prohibited and can result in dire consequences. The permission of the government for such activities actually contradicted these legislations.

The petitioner's side of argument was that mining permission lease was not granted to the company. For such an activity to be carried out they have to acquire prior permission from the Government of India - section 2 FCA, 1980 and rule 4(6) of Rajasthan Minor Mineral Concession Rules. They stated that no permission was obtained and the government illegally issued 400 mining permission leases. This has caused degradation of ecology and devastation of the environment. In this case, the court was called upon to ensure that the laws for the protection of the environment were enacted on.

The state on its behalf countered that the grant of these mining activities were due to some confusion regarding the difference between NP and reserved forests and were confused regarding the exact location of mining areas. But the state was humble enough to agree that the mines were in the protected areas and realised that appropriate action should be taken so that the provisions of the statutes are enforced. The irony is that the state of Rajasthan while proclaiming that they protect the environment actually is part of a huge scam and allows the degradation of the environment.

The central government stated that the FCA provisions extend to reserved, protected forests and all the areas that have been recorded as forests in the government records. They also submitted that no mining should be allowed to take place without the prior permission from the central government. The central government passed a notification on 7 May, 1997 under section 3 of EPA. This notification prohibited the mining in the Sariska NP, Sariska WS and other areas that were protected. According to the Rule 4(6) of the Rajasthan Minor Mineral Concession Rules, 1982, no mining lease can be granted within a forest without going through the rules and provisions provided by the FCA, 1980. The chair man of committee Shri. Justice M. L. Jain recommended 215 mines mentioned in appendix A that are placed wholly in protected areas are closed. The purpose of FCA and EPA are totally different. In the sense that the closure of the mines that were situated in the protected forests may not benefit for the environmental purpose but will surely benefit the forest purpose.

The central government stated that no permission was acquired for the mines that were in the protected forests. The court after the final hearing ordered and issued notice to the listed mines to stop their activities immediately. But the mines outside the tiger reserve were allowed to continue their activity for 4 months within which they could approach the central government with an application to continue their operation. If permitted they are allowed to continue their mining activities with no hindrance. If no permission is obtained then they will have to cease their mining operations immediately. Some miners who felt that they were

wronged filed a review application and the SC rejected the application on 7 May, 1994. This case is a perfect example of Industry Vs Protected Areas.

CONCLUSION

Nature cannot be compared in terms of beauty. There is nothing that surpasses her. The presence of nature along with her children playing around carefree and not worried about the future was what God pictured when he first created Earth. But unfortunately, the rosy picture painted by God was not reality. Man has been the root cause of the upheaval.

Protected areas have a very important place in the process of restoration of the environment. These areas conserve and restore the environment along with its flora and fauna. These areas are critical for the conservation of endemic biodiversity. India has a very diverse population of fauna and flora. But now even the smallest of species are facing a threat of extinction. The protection of natural areas is the fundamental conservation strategy. These areas are key habitats since they can be conserved by species approach or ecosystem approach. These provide refuge for wildlife to restore them and protect them from the outside cruelty. They also protect mankind indirectly by protecting the trivial life on earth and help in balancing the nature's cycle. These areas are life for the local tribes.

The WLPA, 1972 legislation was passed for the protection of wildlife. But ironically until recently the provisions of the act have not been implemented to full strength. Until the SC intervened the State Board and the National Board were very poor respondents. This statute needs to be revised and amended in various aspects. There should be a section legislated in the

WLPA dedicated to the implementation of the provisions and instructions. It should be made mandatory. The authorities in charge need to be penalised in case rules and regulations were flouted. Even though there are rules regarding the entry of people, registration of arms into these areas if someone throws in some cash anything under the sun can be achieved, including flouting the wildlife laws. The main reason is that the base of the whole structure is so weak that nothing can be done. Unless we realise and build the system again from the foundation the future is bleak and is very much predictable. This can be seen the case of Tarun bharath Sangh, Alwar Vs Union of India, 1992. Here the government themselves are villains by allowing illegal mining operations in a protected forest.

Flouting of wildlife laws has resulted in grave consequences. One such case comes to light about the extinction of tigers from the Sariska Tiger Reserve. In December 2004, all tigers had disappeared from the Sariska Tiger Reserve. In 1973, Project Tiger was established for the conservation of tiger. The shock waves that were created and sent across the country resulted in the establishment of the Tiger Task Force; it was specially formed for the Tiger conservation.

Through investigation it was revealed that poaching was the main issue for the dwindling population of tigers. The last six that remained were poached during the last months of 2004. After this devastating story, the wardens are instructed to shoot poachers on sight when they are sighted. Tiger (*Panthera tigris*) is our national animal. The danger we are putting it through is a heart wrenching story. Now it doesn't even have a place to call home since its struggling with mankind tooth and nail for survival.

Joining our national animal are other wildlife species like the lion, Asian elephant, snow leopard etc. Even though these are protected and conserved in areas or reserves they still face the threat of poaching. There are also other reasons that affect the conservation strategies. One of the main reasons is the failure of the forest dwellers or local people in helping to conserve the wildlife. They assist the poachers in killing those animals giving the reason that they are threatened by its presence. Therefore there is no cordial relationship between the management and the local people. But we cannot blame the local people for their action because their whole livelihood is through deriving resources from the forest reserve. The recording and rights of people living near forests and reserves started way back when the acts were legislated but even now many are pending. Many people are still in hope to get their rights so that they can live peacefully with nature. This is a perfect paradigm for Man Vs Wild. These conflicts have been present for ages but have increased over the years because humans expand their cities or towns with reference to development. This has resulted in us exploiting their habitat. Other reasons that can lead to threatening the wildlife in their protected abode is illegal activities such as mining, construction, noise etc.

Protected areas along with its varied flora and fauna actually conserve the value of the country. Even though these areas are protected half the population of the country are not aware that an Act has been implemented for protection. People don't realise the consequences and the penal codes of the constitution regarding environment. This is basically due to ignorance and illiteracy. Therefore awareness needs to be achieved. MoEF

One act of random kindness will change the life of many. Environment and mankind are interlinked. That is because every living thing has a place and a role to play on this planet through a food chain or a food web. So even if one level is disrupted the whole web goes haywire and can result in a catastrophe that man didn't perceive. So if he wants to live he needs to start thinking twice before taking a crucial step. But it doesn't mean that development stops. Development can take place but not at the cost of the environment. Nature should not take the brunt of man's action. Only recently have people started to stand up to the atrocities being done to animals. But even then the response is poor compared to the huge population of India.

Man being a greedy animal, has never been satisfied with his life and in the name of development has destroyed the environment. When he does realise the mistakes that he has committed it would be too late to turn back and start again. He is already standing on the edge of the cliff, one wrong move and he sinks without a trace. Being the most intelligent creature ironically man has been doing the most foolish thing of his lifetime. What is life without any morale and values? Are we so inhumane to even listen to the pain that these animals cry out when they are being killed? Are we deaf to the pleas that reverberate out of them and asking us for their help? But instead of helping them we are using them for our benefit. This is what life has become to develop our race we step onto the lives of another.

GLOSSARY

Art. 252 Power of Parliament to legislate for two or more States by consent and adoption of such legislation by any other State.

Art. 51A(g) “ It shall be the duty of every citizen of india to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures.”

Entries 17A and 17B Forests and Protection of Wildlife in Concurrent list

Art. 8 In - Situ conservation of protected areas

Art. 21 Protection of life and personal liberty.-No person shall be deprived of his life or personal liberty except according to procedure established by law.

Section 2(37) “ wild life” includes any animal, bees, butterflies, crustacea, fish and moths; and aquatic or land vegetation which form part of any habitat;

Section 16 notification declaring forest reserved

Section 18 Declaration of sanctuary

Section 26 A Declaration of area as sanctuary

Section 27 Restriction on entry in sanctuary

Section 29 Destruction, etc., in a sanctuary prohibited without permit

Section 30 Causing fire prohibited - No person shall set fire to a sanctuary, or kindle any fire, or leave any fire burning, in such manner as to endanger such sanctuary.

Section 31 Prohibition of entry into sanctuary with weapon – No person shall enter a sanctuary with any weapon except with the previous permission in writing of the Chief Wild Life Warden or the authorised officer.

Section 32 Ban on use of injurious substances – a No person shall use, in a sanctuary, chemicals, explosives or any other substances which may cause injury to or endanger, any wild life in such sanctuary