
ILLEGAL WILDLIFE TRADE: AN ANALYSIS UNDER THE WILDLIFE PROTECTION ACT

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INTRODUCTION

Animals are major characters or symbols in many mythologies and religions. Additionally, throughout history, animals have been portrayed in literature, music, art, and paintings. But with evolution, the need of humans turned into greed, which led to the extinction of many wildlife species due to hunting, poaching, illegal trade, habitat loss due to overdevelopment and deforestation, forced crossbreeding, and so on. Hunting has been illegal in India since 1972 in accordance with the Indian Wildlife Protection Act¹, yet it still occurs often in many areas. Due to this, in the present day many species of wild animals have gone extinct, such as the Indian cheetah, the pink-headed duck, the Indian Javan rhinoceros, the Himalayan quail, and the Indian aurochs.² Moreover, due to overexploitation of tigers, rhinoceroses, elephants, and pangolins are among the species that have been badly overfished and driven to extinction. Overfishing for commercial purposes has also resulted in the depletion of several freshwater and marine species, including sharks, corals, turtles, otters, tuna, and other sea fish. The current extinction rate is the highest since the extinction of the dinosaurs 65 million years ago, and it is up to 1000 times higher than the historical average.³ This illegal poaching is encouraged by corruption, which in turn undermines sustainable development and makes a mockery of the provisions of law. Moreover, illegal wildlife trade impedes economic growth. Furthermore, the illicit wildlife trafficking may negatively impact coastal and forest ecosystems. The illegal wildlife trade jeopardizes the food security and access to healthcare of several local people who depend on these resources for their livelihoods and nutrition. In the years 2018, 2019, and 2020,

¹The Wildlife (Protection) Act, 1972, No. 53, Acts of Parliament, 1972 (India).

² Indian Animals That Have Gone Extinct, *India Today NE*, (Dec. 13, 2023)

<https://www.indiatodayne.in/visualstories/webstories/indian-animals-that-have-gone-extinct-81859-13-12-2023> (last visited Feb. 27, 2025).

³Tanya Wyatt, *Wildlife Trafficking: A Deconstruction of the Crime, the Victims, and the Offenders* (Palgrave Macmillan, U.K., 2013).

the official cases ratio to arrests of wildlife crime in India was 648:1099, 805:1506, and 601:1231.⁴

In general terms, wildlife refers to undomesticated or native creatures that are found in their natural environments, which include grasslands, woods, and deserts. The Wildlife Protection Act of 1972⁵ also defines wildlife as “Wildlife includes any animal, aquatic, or land vegetation which forms part of any habitat,” according to Section 2 (37)⁶ of the definition. According to Section 2 (36)⁷ “Any animal specified in Schedule I to IV and found wild in nature” is referred to as a wild animal. (Schedule I and IV, Wildlife Protection (Amendment) Act, 2002).⁸ Hence, any or all naturally existing, non-domesticated, and uncultivated living forms, including both plants and animals, can be broadly referred to as wildlife. This includes a vast array of beings that are unaffected by interference of human beings, control, including fish, amphibians, reptiles, insects, plants, birds and microbes.

Following the implementation of the Constitution, the only law related to birds and animals living in the wild in India is Wildlife Protection Act, 1972⁹. Then, strong central law was vital because of the quick decline in animals. However, birds and wild animals were included in the “State List of Schedule VII”¹⁰ of the Constitution, only State legislature had the authority to enact laws. In pursuit of Article 252¹¹ of the Constitution, the several state legislatures ultimately passed resolutions, giving Parliament the authority to pass the legislation required for India's wild animal conservation. As the laws prevalent in few states were inadequate, and the Central Government recognized the necessity for an all-inclusive legislation for the safety of birds and wildlife for all matters relating thereto or related to it laws. A crucial first step toward a national conservation strategy was the enactment of the 1972 Act¹², which provided for establishment of wildlife sanctuaries and national parks with varying levels of protection. India had not yet adopted the idea of contemporary wildlife conservation before 1972, when

⁴ Ajay Kumar Rana, Nishant Rana, Current Wildlife Crime (Indian Scenario): Major Challenges and Preventive Approaches, *National Institute of Health*, Vol. 32 (5), 1473-1491, (2023), [https://pmc.ncbi.nlm.nih.gov/articles/PMC10025790/#:~:text=The number of cases registered, July 2020, exotic species viz. \(last visited Feb. 27, 2025\).](https://pmc.ncbi.nlm.nih.gov/articles/PMC10025790/#:~:text=The number of cases registered, July 2020, exotic species viz. (last visited Feb. 27, 2025).)

⁵ The Wildlife (Protection) Act, 1972, No. 53, Acts of Parliament, 1972 (India).

⁶ The Wildlife (Protection) Act, 1972, § 2 (37), No. 53, Acts of Parliament, 1972 (India).

⁷ *Id.*

⁸ The Wildlife (Protection) Amendment Act, 2002, Sched. I-IV, No. 16, Acts of Parliament, 2003 (India).

⁹ The Wildlife (Protection) Act, 1972, No. 53, Acts of Parliament, 1972 (India).

¹⁰ India Const. sch. VIII.

¹¹ India Const. art. 252.

¹² The Wildlife (Protection) Act, 1972, No. 53, Acts of Parliament, 1972 (India).

the Wildlife Protection Act¹³ was passed, imposing stringent regulations to stop the swift decline in species. The legislative foundation for wildlife conservation in the nation is provided by the Act¹⁴ and its revisions up until 2006.

The creation of proper and efficient legislation that is applicable nationwide for the preservation of wildlife was required due to the evident shortcomings in the previous legislation and the ongoing loss of animal habitat. This enactment had three main goals: to build protective places for animals, including wildlife sanctuaries and national parks; to curb illegal wildlife trade and their product trade; it also provides to have consistent wildlife laws across the nation. Since that time, India has taken important actions to safeguard its wildlife, such as expanding its protected areas, outlawing the hunting and trafficking of endangered species, and attempting to lessen conflicts between people and animals. The tiger, India's emblematic national animal, and the country's rich biodiversity have both benefited from these efforts. Despite all these efforts, the current data shows a rise in illegal wildlife trade for human greed, may it be due to the rich's demand for exotic animals for leather or unethical fashion or display and so on or for illegal hunting and smuggling. Some more data regarding illegal wildlife trade is as follows:

- In 2023, more than 296 cases of illegal wildlife trade were registered under the Wildlife Protection Act¹⁵.
- In June of 2024, 48 illegal wildlife trade incidents were reported in India¹⁶.
- In August of 2024, 57 cases of the same were officially reported¹⁷.

BACKGROUND

India has been a hotspot for wildlife trade for centuries, being one of the most biodiverse

¹³ The Wildlife (Protection) Act, 1972, No. 53, Acts of Parliament, 1972 (India).

¹⁴ *Id.*

¹⁵ Number of Cases Registered Under Wildlife Protection Act in India from 2016 to 2020, *Statista* (last updated 2024), <https://www.statista.com/statistics/1149264/india-number-of-cases-registered-under-wildlife-protection-act/> (Last visited Feb. 27, 2025).

¹⁶ Illegal Wildlife Trade News- June 2024, *Wildlife Conservation Society, India* (June, 2024), <https://programs.wcs.org/india/Newsroom/News/ID/22957/Illegal-Wildlife-Trade-News-June-2024#:~:text=The following content is collected, and the Tricarinate Hill Turtle.&text=Other exotic wildlife IWT incidents,from Hyd - Times of India> (Last visited Feb. 27, 2025).

¹⁷ Illegal Wildlife Trade News: August 2024, *Wildlife Conservation Society, India* (Sept. 9, 2024), <https://programs.wcs.org/india/Newsroom/News/ID/23445/Illegal-Wildlife-Trade-News-August-2024#:~:text=We collected and collated 57, Tortoise and various reptile species.> (Last visited Feb. 27, 2025).

countries on Earth. The illegal wildlife trade in India has a long history, influenced by cultural practices, colonial exploitation, and contemporary organized crime. Poaching and trafficking of endangered species are rampant in India, as the demand for animal parts in domestic and international markets remains high, even though the country has some of the most stringent laws in place against it.

Wildlife Trade in India from the Ancient to Medieval Period

From ancient times, wildlife in India culture, religion and medicine have enjoyed a very close relationship. Author has detailed insight of Arthashastra¹⁸ (4th Century BCE), Vedas and Ayurvedic¹⁹ scripture for wildlife use. Animal-like elephants, peacocks, and falcons served as royal pets, and also tiger and deer skins their respective religious and ceremonial purposes. Some animal products (musk from musk deer and snake venom, for example) were also prescribed by Ayurveda.

Hunting as a sport was popular with Indian and Mughal's royalty during the medieval age. Mughal emperors like Akbar and Jahangir kept private menageries, with exotic animals. They also promoted hunting of tigers, leopards and elephants, which reduced severely depleted wildlife numbers. With the influx of Arab and Persian trades along the coast of India, the wildlife trade erupted further and exotic animals along with ivory and rare birds were sent over to the Middle East and Central Asia.

Colonial Period and Mass Exploitation (1757-1947)

India's wildlife was commercially exploited on a large scale during the British colonial period. Hunting became institutionalized, not as a sport for British officials and Indian Maharajas, but as a means of social control through mass slaughter of tigers, leopards, elephants and rhinoceroses. In European markets, the demand for Indian wildlife products (ivory, tiger skin, rhino horns, etc.) rose steeply. British naturalists and collectors, too, had arrived at provision zoos and museums in Europe with rare species, transporting them by ship.

Among them were the Wild Birds and Animals Protection Act, 1887²⁰ and the Indian Forest

¹⁸ KAUTILYA, ARTHASHASTRA (R. Shamasastry trans., 1915).

¹⁹ S.N DASGUPTA & S. CHATTERJEE, AN INTRODUCTION TO INDIAN PHILOSOPHY 120 (1954).

²⁰ Wild Birds and Animals Protection Act, No. 10 of 1887 (India).

Act, 1927²¹ for controlling hunting. However, these laws had no way to be enforced, and poaching remained unrestrained. On the other hand, Bengal tigers, Asiatic lions, and Indian rhinoceroses faced a steep population decrease, as a result of over-hunting and habitat destruction, caused by deforestation and agriculture expansion.

Post-Independence Efforts and Growth of Illegal Wildlife Trade (1947-1970s)

India recognized the need for wildlife conservation post-independence in 1947. The government made national parks and wildlife sanctuaries to preserve endangered species. But illegal wildlife trade continued, largely because of financial difficulties and global appetite. Tigers, leopards, and elephants were killed for their skins, bones, and ivory; birds and reptiles were trafficked for the pet trade.

The groundwork was laid with the Wildlife (Protection) Act of 1972²², which prohibited hunting and trade of endangered species and established protected areas for conservation. However, poaching remained lucrative with weak law enforcement, corruption among officials, and a lack of awareness.

Modern-Day Illegal Wildlife Trade in India (1980s-Present)

Illegal wildlife trade has increased over the years in India because of the demand for animal parts for high-end or medicinal purposes as well as exotic pets. The practice of poaching has also become more sophisticated as to how rural criminals obtained modern technology and could funnel animals through smuggling routes, which helps them get advanced tools for poaching.

Other Examples of Illegal Wildlife Trade in India

1. Tiger and Leopard Hunting-

India has the highest population of wild tigers at more than 70%, which makes it a prime target for international poachers. Poachers target the basic natural resources such as tiger bones and skins because they fetch a high price in China and other Southeast Asian regions. During the late 90s, poaching caused extensive damage to tiger populations in several reserves, such as

²¹ Indian Forest Act, No. 16 of 1927 (India).

²² The Wildlife (Protection) Act, 1972, No. 53, Acts of Parliament, 1972 (India).

Sariska and Panna. Even after all the attempts to save them, poaching of both tigers and leopards continues to dominate the trade.

2. Elephant Ivory Smuggling –

The illegal trade of elephant tusks continues to thrive even after India's ban on the ivory trade in 1991. Smugglers covertly trade carved and jewelry pieces to Thailand, Japan, and China, as these countries have a high demand for ivory. Asserting the ban, elephant poaching continues to be a major problem in the various states of Assam, Kerala, and Karnataka.

3. Pangolin Trafficking –

India is one of the world leaders in the illegal trade of mammals, specifically the Indian pangolin. The scales of the Indian pangolin fetch a high price in China and Vietnam, which further makes India a central hub for this illegal trade due to its connectivity with Nepal and Myanmar. Not only is the trade harmful, but the use of the scales in medicine is completely unfounded.

4. Exotic Bird Trade –

Especially during the festival of Diwali, live birds are illegally traded and captured in India. Along with superstitious beliefs to ward off black magic, owls become highly favorable. Hornbills, mynas, owls, and parrots are among the most captured in the illegal wildlife trade. It is overwhelming that the ban on live bird trade is completely disregarded in major cities like Mumbai and Kolkata.

5. Marine and Reptile Trade –

Species like hustlers of sea cucumbers, corals, and sea horses are illegally extracted from the Indian coasts and are directly smuggled to the markets in southeast Asia. Star tortoises and monitor lizards are also frequently smuggled for the pet trade and traditional medicine.

6. Snake Venom Smuggling –

Cobra and krait snake venom are smuggled to be sold in traditional medicine as well as for research purposes. A great deal of snake poaching is occurring in India's forest and agricultural land, which is a developing phenomenon and poses high danger for the reptilian wildlife.

Realistic depictions of everyday life show the demand for exotic animals as pets, traditional medicine, fashion items, or status symbols has transformed illegal wildlife smuggling into one of the largest markets of black trade. The ever-evolving globalization and modern technology have only worsened the issue, growing the illegal wildlife trade industry even further.

Overview of Related Legal Provisions on Illegal Wildlife Trade

Illegal wildlife trade poses a severe threat to India's biodiversity as it endangers numerous species and alters ecosystems. However, India is equipped with both international and domestic legal measures to prevent this issue. India's legal systems strive to mitigate poaching, smuggling, and trade, both domestically and internationally, and their wildlife. There are various treaties that control illegal hunting, traveling with wildlife, and selling wildlife, and all of them have harsh repercussions for those that infringe on the laws.

Domestic Legal Framework –

The Wildlife (Protection) Act of 1972²³ is the central statute for the conservation of wildlife in India. This law provides overarching protection for wild animals, birds, and plants, and also controls the commerce of animal's byproducts. Different species are put into different categories, or schedules, and the ones that are flagged as endangered make a list that includes elephants, rhinoceroses, and tigers. These animals are granted the most protection. Poaching and hunting are severely punished under the Act²⁴. Unauthorized wildlife trade and possession of different wildlife products is also met with high penalties, including jail time and heavy fines. In addition, law enforcement and forest officials are entitled to forfeit unlawful wildlife items, detain offenders, and perform searches without warning or permission.

Besides the Wildlife Protection Act, the Indian Penal Code (IPC), 1860²⁵ is also pertinent in the enforcement of crimes against wildlife. The IPC provides remedies in situations where there is a network crime syndicate involved in the smuggling of wildlife products under the offenses of theft, criminal conspiracy, and possession of stolen property. These provisions are usually relied upon to complement wildlife statutes to ensure prosecution on more counts of crimes than just those under wildlife laws.

²³ The Wildlife (Protection) Act, 1972, No. 53, Acts of Parliament, 1972 (India).

²⁴ *Id.*

²⁵ The Indian Penal Code, No. 45 of 1860 (India).

In addition, the Forest (Conservation) Act, 1980,²⁶ provides for the protection of wildlife by controlling the allotment of forest areas for purposes other than forestry. Deforestation and destruction of wildlife habitats, which aggravate poaching as well as illegal wildlife trade, are often linked to each other. This Act ensures the forests are preserved to minimize the chances of wildlife trafficking. Also, with respect to the Environment (Protection) Act, 1986²⁷, it provides means to control practices that may result in destruction of the environment and threaten wildlife life, which helps to combat the illicit trade of wildlife products in foreign markets.

The Biological Diversity Act, 2002,²⁸ prevents unauthorized use and access to fauna and flora genetic material and various biodiversity resources. Therefore, this act reinforces wildlife protection by regulating the commercial use of biological resources, which helps in protecting rare species from overexploitation.

International Legal Framework –

India is part of numerous international treaties aimed to resolve the issue of wildlife smuggling on a transnational scale. One of the most important multilateral treaties is the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) 1973. CITES divides protected species into a variety of lists and controls their international trade so that those with the greatest risk of endangerment are given the most severe protections. Under the provisions of CITES, India only allows the import and export of certain animal species within its national borders under a strict system of licensing. This treaty has significantly reduced the overexploitation and trafficking of Indian star tortoises, pangolins, and big cats.

An additional key international treaty is the United Nations Convention against Transnational Organized Crime, 2000, which includes relevant articles on wildlife trafficking as a part of international crimes. Since the trade in wildlife is usually associated with global crime and organized syndicates, this treaty enhances international partnership in monitoring and prosecuting wildlife crime. Indian enforcement agencies are collaborating with international

²⁶ The Forest (Conservation) Act, No. 69 of 1980 (India).

²⁷ The Environment (Protection) Act, No. 29 of 1986 (India).

²⁸ The Biological Diversity Act, No. 18 of 2002 (India).

bodies like INTERPOL²⁹ and the World Customs Organization under this convention to break wildlife smuggling rings that cross international borders.

India is also a party to the Convention on Biological Diversity, 1992³⁰, which guides the exploitation of biological resources and avoids the undue exploitation of those resources. Under this convention, India has developed specific national action plans for the protection of threatened species and management of trade in wildlife. Furthermore, India is an active participant in international movements like the Global Tiger Forum³¹ and the ASEAN wildlife enforcement networks³², aimed at strengthening actions against poaching and unlawful wildlife trade.

Besides primary legislation, India has framed a few rules under the Wildlife Protection Act to improve enforcement. The Wildlife (Protection) Rules, 1995³³, formulated the methods of recoding and reporting of wildlife offenses. Recognition of Zoo Rules, 1992³⁴, provided for the management of zoological parks so that illegal wildlife capture breeding can be controlled. In addition, the National Tiger Conservation Authority (NTCA) Rules, 2006³⁵ and the Tiger Conservation Foundation (Regulation) Guidelines, 2007³⁶, aim to strengthen measures for the needed conservation of tiger habitats and for the prevention of tiger poaching. Concerning the growing concerns of human-animal conflict, the National Policy for the Management of Human Wildlife Conflict, 2019³⁷ was established to achieve balance on the need to protect human life and property along with protecting wildlife. Another attempt to control the trade in exotic species was the Voluntary Disclosure Scheme, 2020³⁸, but it has been poorly exploited by traffickers to camouflage ownership of illegally seized wildlife.

ANALYSIS

India is a Growing Hub for Illegal Wildlife Trade

India is in the first twenty nations trafficking wildlife in the top ten for wildlife trafficking by

²⁹ INTERPOL, ILLEGAL WILDLIFE TRAFFICKING: Global Wildlife Crime Report (2020).

³⁰ Convention on Biological Diversity, June 5, 1992, 1760 U.N.T.S. 79.

³¹ Global Tiger Forum, Conservation Efforts and Status Report (2021).

³² ASEAN Wildlife Enforcement Network, Wildlife Smuggling and Policy Recommendations (2019).

³³ The Wildlife (Protection) Rules, 1995.

³⁴ The Recognition of Zoo Rules, 1992.

³⁵ The National Tiger Conservation Authority (NTCA) Rules, 2006.

³⁶ The Tiger Conservation Foundation (Regulation) Guideline, 2007.

³⁷ National Policy for the Management of Human Wildlife Conflict, 2019.

³⁸ The Voluntary Disclosure Scheme, 2020.

air, even though it is a signatory to the (CITES).³⁹ India is both a source and a transit nation for illicit wildlife and wildlife products because of its mega-diverse nature (it is home to 8% of the world's species)⁴⁰ and a massive population, which in turn makes it extremely difficult to track down illegal commodities after they have reached domestic markets.

The battle against the illegal wildlife trade has become more challenging due to a number of additional issues. These include the open international borders with China, Myanmar, and other Southeast Asian nations; the rapidly rising airport industry and aviation business; and some illegal traffickers use online platforms such as social media to participate in this illegal trade.

Additionally, in 2020, the Ministry of Environment, Forests, and Climate Change (MoEFCC) launched the Voluntary Disclosure Scheme⁴¹, which traffickers of exotic animal species in India have even misused. This scheme enabled Indians to disclose their possession of exotic wild species before March 15, 2021, without any paperwork. The program sought to control the country's expanding exotic animal industry, which exploded following the total prohibition on the trade in Indian species.⁴²

In addition to these factors, there are significant legal gaps in India regarding the ownership of exotic animals.

Two primary avenues are used for the import and export of international wildlife trafficking in India are: airports and the lengthy international border along the Northeast. Trafficking in rhino horns, tiger parts, and pangolin scales is particularly common along the Indo-Nepal and Indo-Myanmar-China borders, according to the 2018 TRAFFIC report *In Plane Sight*⁴³. Cities in Northeast India, including Dimapur, Guwahati, and Imphal, are exploited as transit locations. There is also a lot of avian and reptile trafficking through India's border with Bangladesh. The

³⁹ United Nations Environment Programme, *New Initiative Combats Wildlife Trafficking in India's Airports* (Apr. 22, 2022), <https://www.unep.org/news-and-stories/story/new-initiative-combats-wildlife-trafficking-indias-airports>.

⁴⁰ Directorate of Revenue Intelligence, *Smuggling in India Report for 2020-2021*, at 93 (2021), <https://dri.nic.in/writereaddata/smugglinginindiareportfor2021/files/basic-html/page93.html>.

⁴¹ The Voluntary Disclosure Scheme, 2020.

⁴² Mongabay-India, *Smugglers using Government Amnesty Scheme as a New Tool for Exotic Wildlife Trade* (Dec. 8, 2021), https://india.mongabay.com/2021/12/smugglers-using-government-amnesty-scheme-as-a-new-tool-for-exotic-wildlife-trade/?utm_source=chatgpt.com.

⁴³ TRAFFIC, *In Plane Sight: Wildlife Trafficking in the Air Transport Sector* (2018), <https://www.traffic.org/publications/reports/in-plane-sight/>.

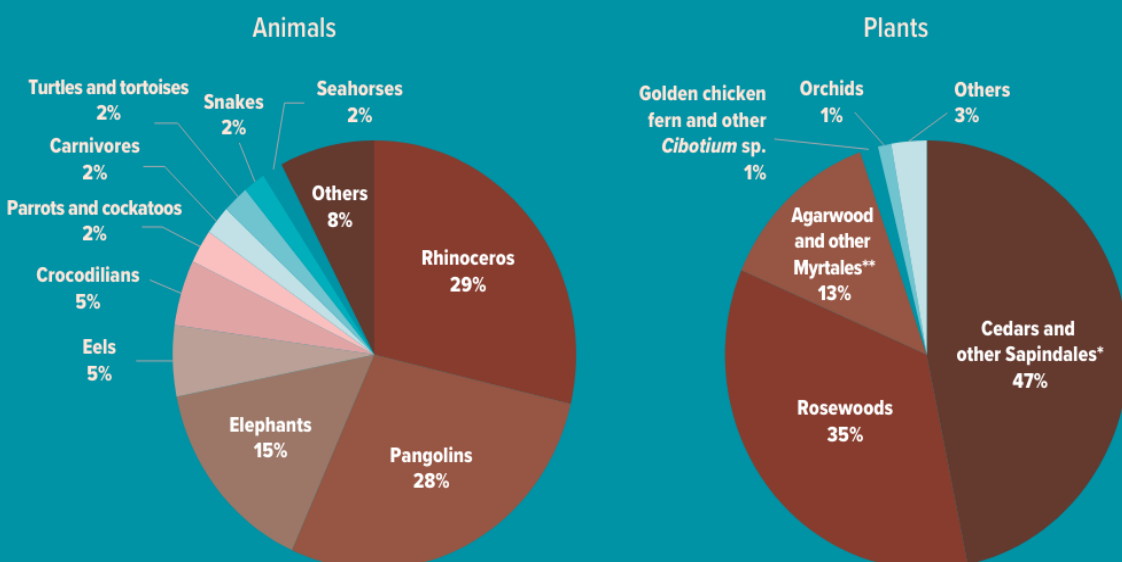
town of Jalpaiguri in the Dooars district of northern West Bengal grabbed headlines as a new transit hub for the trafficking of exotic birds and animals in recent news.

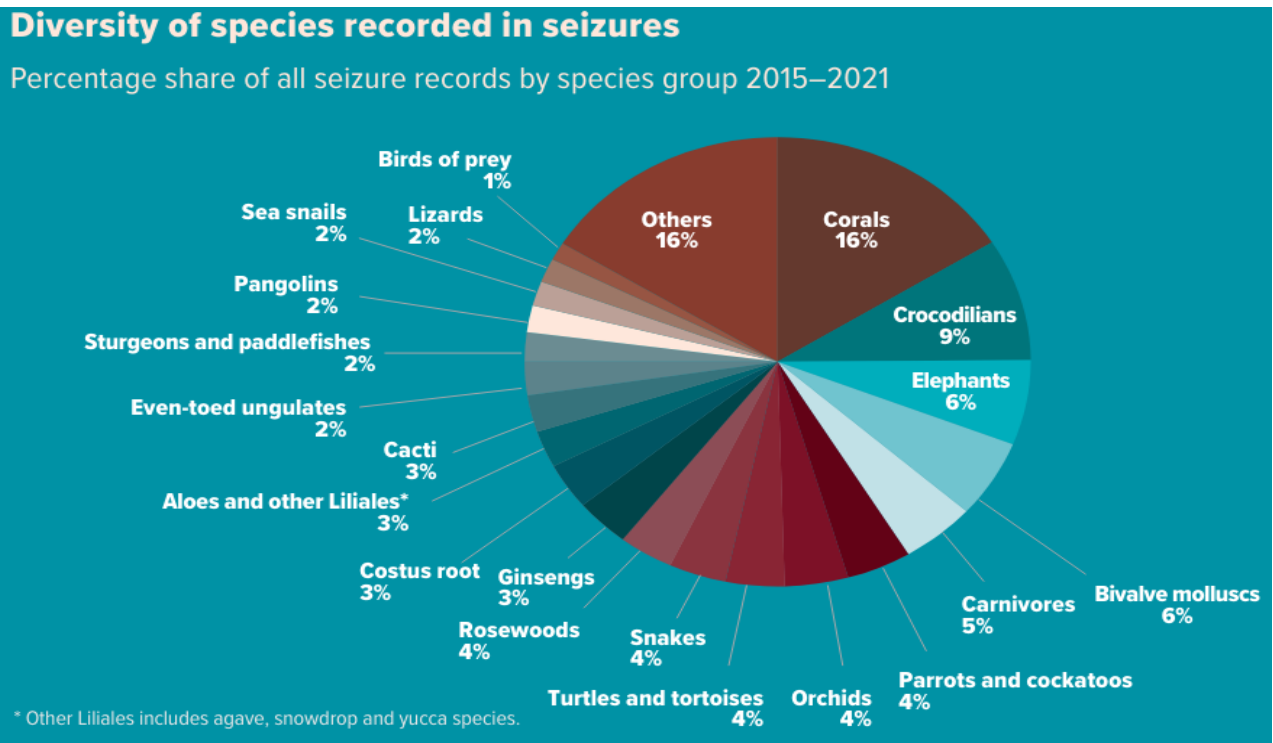
Trafficking in Animal and Plant Products:

1. Animal - rhinos, Plant - cedar, are the most impacted species of global illicit wildlife trade from 2015-2021.
2. The illegal trade of rhino horns is 29% and is considered the largest segment of illegal animal trade, followed by 28% of pangolin scales and 15% of ivory elephant.
3. Other animals that are illegally traded include Eels (5%), Crocodilians (5%), parrots and cockatoos (2%), carnivores, turtles and tortoises, snakes, and seahorses.
4. Cedars and other Sapindales like mahogany, holy wood and Guaiacum had the highest share of the illegal market at 47% followed by rosewood at 35% and agarwood and other Myrtales at 13%.

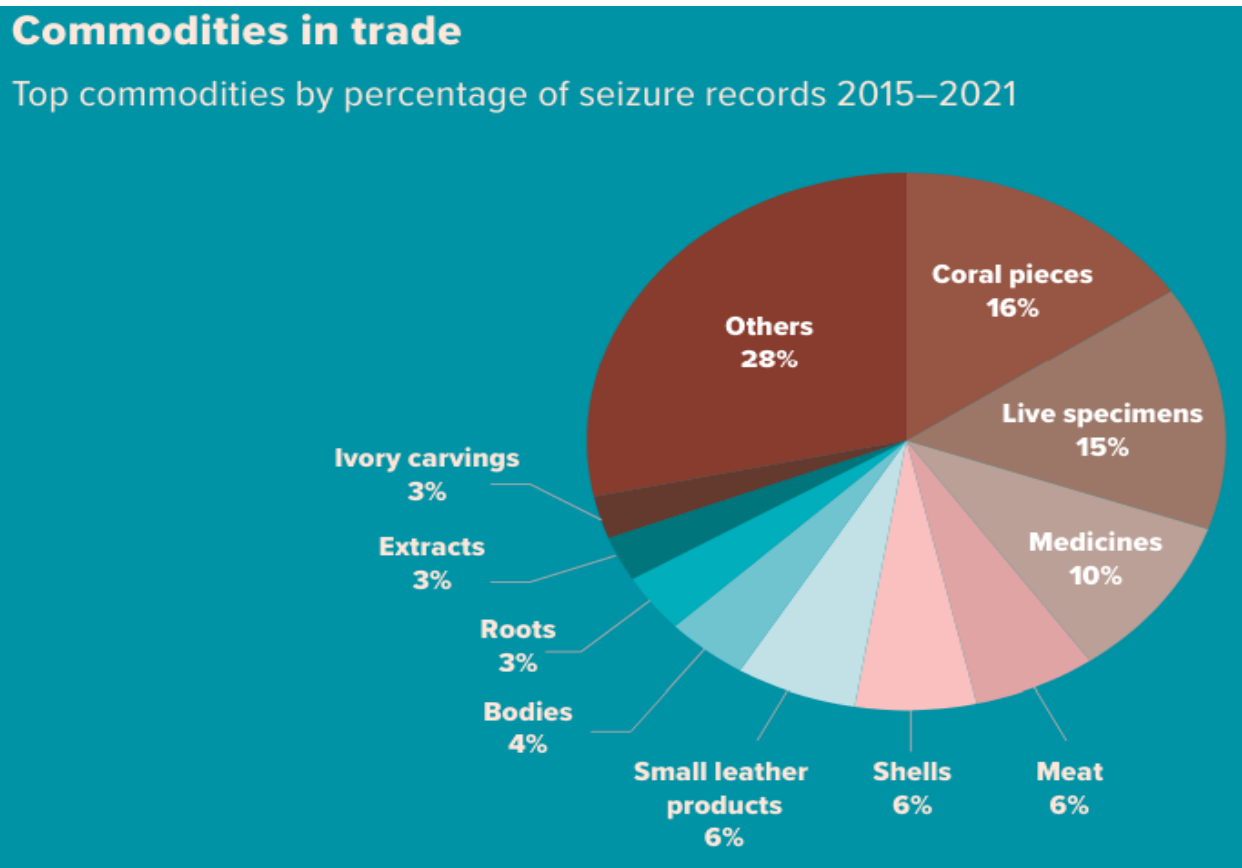
Species most affected

Just 15 broad markets comprised the bulk of the observed illegal wildlife trade during 2015–2021 based on standardized seizure index





Commodities in Trade: Out of all seizures in 2015-2021, coral pieces were found most often and comprised 16% of all seizures during that period; animal products and medicines accounted for 10% of all seizures, and animal specimens 15%.



Off-Track from SDG Goal No.15.7:

1. In 2024, UNODC added a new indicator to monitor progress toward SDG target 15.7, aimed at the cessation of illegal wildlife trafficking.
2. Skeletal evidence indicates that Rising Illegal Trade is a dominant trend proportionally to all types of wildlife trade (both legal and illegal) since 2017.
3. The situation deteriorated during the Covid-19 pandemic (2020-2021), where wildlife seizures peaked in relation to their share of global trade, at 1.4-1.9%.
4. Comparing the 0.5-1.1% in the previous years, the rise in illegal wildlife trade suggests the world is not on pace to meet 15.7 by the year 2030.

CASE LAWS

Landmark cases given by Indian courts play a major role in curbing the menace that is the illegal trade of wildlife in India. Some of the landmark decisions are:

1. Ivory Traders and Manufacturers Association v. Union of India⁴⁴

In this landmark judgement, numerous amendments in the Wildlife Protection Act of 1972⁴⁵ were challenged by the petitioners which banned the import of ivory products. The petitioners' main contention was that neither the Wildlife Protection Act's necessary requirements nor Amendment Act No. 44 of 1991⁴⁶ applied to them. The petitioners were mainly impacted by the amendment that prohibited them from trading in or possessing "ivory sourced from African elephants." They argued that they only dealt in ivory that had been legally imported to India and that their actions did not harm African elephants. They claimed that the Wildlife Protection Act of 1972⁴⁷ and the Wildlife Protection Amendment Act of 1991⁴⁸ infringed upon their right to engage in any activity, trade, or business as protected by Article 19⁴⁹ of the Constitution, making these laws unconstitutional.

⁴⁴ M/S Ivory Traders and Manufacturers v. Union of India (1997), AIR 1997 DELHI 267 (India).

⁴⁵ The Wildlife (Protection) Act, 1972, No. 53, Acts of Parliament, 1972 (India).

⁴⁶ The Wildlife (Protection) Amendment Act, 1991, No. 44, Acts of Parliament, 1991 (India).

⁴⁷ The Wildlife (Protection) Act, 1972, No. 53, Acts of Parliament, 1972 (India).

⁴⁸ The Wildlife (Protection) Amendment Act, 1991, No. 44, Acts of Parliament, 1991 (India).

⁴⁹ India Const. art. 19.

In this case, the Delhi High Court found that the ban on the sale and trade of ivory items was neither unconstitutional nor unreasonable. The Court rules that the restrictions set by the Wildlife Protection Act of 1972⁵⁰ and its amendment were in line with the Constitution⁵¹ and did not exceed its boundaries. The prohibition on owning and selling ivory was deemed a reasonable limitation on the fundamental right to conduct business. The Court concluded that legislation aimed at protecting an endangered species cannot be seen as exceeding constitutional limits, as the amendment was enacted with the goal of safeguarding endangered animals.

2. Sansar Chand v. State of Rajasthan (2010)⁵²

This landmark judgement was pronounced by Justices T.S. Thakur and Markandey Katju. Justice Thakur said that “Shera was the symbol of the recent Commonwealth Games, but ironically, Shera has been almost exterminated in our country. The Sher Khan of Rudyard Kipling's 'Jungle Book', which once abounded in India, is rarely to be seen today. This case reveals how avaricious and rapacious persons have by organized crime destroyed large parts of the wild life of India and brought many animals, e.g., tigers, leopards, bison, etc., almost to the brink of extinction, thereby seriously jeopardizing and destroying the ecological chain and ecological balance in our environment.”

In this case, all the tigers in Rajasthan's Sariska Tiger Reserve were poached in 2005. In response, the Wildlife Protection Act was changed to make poaching a non-bailable offence. Operation Tiger, a nationwide initiative to save and preserve tigers in the wild, was also started by the Indian government after this landmark judgment.

3. State of Bihar v. Murad Ali Baig (1988)⁵³

The main contentions of this case were elephant hunting and its justification under the Wildlife Protection Act and the Indian Penal Code⁵⁴. The Supreme Court held that as elephants are covered by Schedule I of the Wildlife (Protection) Act, 1972⁵⁵, it is illegal to kill or hunt them.

⁵⁰ The Wildlife (Protection) Amendment Act, 1991, No. 44, Acts of Parliament, 1991 (India).

⁵¹ India Const.

⁵² Sansar Chand v. State of Rajasthan (2010), 2011 AIR SCW 372 (India).

⁵³ State of Bihar v. Murad Ali Baig (1988), AIR 1989 SUPREME COURT 1 (India).

⁵⁴ Indian Penal Code, 1860 (India).

⁵⁵ The Wildlife (Protection) Act, 1972, sch. 1, No. 53, Acts of Parliament, 1972 (India).

Additionally, it was decided that Section 429⁵⁶ of the Indian Penal Code, 1860, and the concept of hunting found in the Wildlife (Protection) Act, 1972⁵⁷, are not the same. The Court held that the definition of a crime under the Wildlife Protection Act⁵⁸ differed drastically from an offence under the Indian Penal Code in terms of its extent and breadth.

4. Tilok Bahadur Rai v. State of Arunachal Pradesh (1979)⁵⁹

In this particular case, the defendant killed a tiger by shooting it. The court came to the decision that understanding the nature and dangers around the accused as well as the circumstances surrounding the animal's death were crucial to determining whether or not the defendant slaughtered a wild animal in good faith. The court held that after the parties had had the accused had proper time to determine whether his life was in danger or not, he shot the tiger as he was about to attack him. So, the act of the accused was considered as self-defence. The tiger would have killed the accused if he hadn't acted in self-defence and shot him as he was coming toward him. As a result, he killed the tiger for self-defence, which is permissible as it may be seen as self-defence. The Supreme Court made it clear that an animal belongs to the government when it is injured or killed in self-defense. Further, the Court made it clear that it does not matter who killed or injured an animal, that individual has no claim on it.

5. T.N. Godavarman Thirumulpad v. Union of India (1996)⁶⁰

T.N. Godavarman, the petitioner in this case filed the case under Article 32⁶¹ of the Constitution, requesting the court that Chhattisgarh and Union of India to be ordered by the Supreme Court to take the required steps to safeguard the Asiatic Wild Buffalo, as it is a rare species, and to stop domestic and wild buffalo from mating together in order to preserve the genetic integrity. It should take precedence over conservation efforts for critically endangered species and their environments. The supreme court ordered state of Chhattisgarh to implement the Centrally Sponsored Integrated Development of Wildlife Habitats Scheme, 2009, which were recovery programs aimed at conserving wildlife outside of protected areas, in order to prevent the extinction of the wild buffalo.

⁵⁶ Indian Penal Code, 1860, sec. 429 (India).

⁵⁷ The Wildlife (Protection) Act, 1972, No. 53, Acts of Parliament, 1972 (India).

⁵⁸ The Wildlife (Protection) Act, 1972, No. 53, Acts of Parliament, 1972 (India).

⁵⁹ Tilok Bahadur Rai v. State of Arunachal Pradesh (1979) 1979 CRILJ 1404 (India).

⁶⁰ T.N. Godavarman Thirumulpad v. Union of India (1996), AIR 1997 SUPREME COURT 1228 (India).

⁶¹ India Const. Art 32.

6. Naveen M. Raheja v. Union of India (2000)⁶²

The petitioner, Naveen Raheja, alleged that the Nehru Zoological Park in Hyderabad had skinned a tigress alive and that caged tigers at the Bhubaneswar Zoo were in danger of being skinned alive. Therefore, he filed a case under Article 32⁶³ of the Constitution. He voiced his concern for animal welfare in zoos and protected forests. The Supreme Court ruled that although the zoo's management had an obligation to protect the tiger, the animal was not shielded from the abuse that took place there. It is immoral and animal cruelty to treat silent creatures inhumanely. Such an act is punishable under the Prevention of Cruelty to Animals Act of 1960⁶⁴. The court has directed the state to implement measures to prevent similar incidents from happening in protected forests or zoos in the upcoming future.

Other subordinate Acts

Apart from the Wildlife Protection Act, there are some other legislations that protect wild animals against illegal trade in India. These subordinate laws, including rules and regulations, have been created in accordance with Section 63(1)(b)⁶⁵ of the Act.

Formulated in 1973, the Wildlife (Transaction and Taxidermy) Rules⁶⁶ served to control the manufacturing, transportation of wildlife products. Central regulations were also created in the same year for producers, dealers, and others when declaring the number of captive animals, animal products, trophies, etc. To further guarantee the appropriate care and safety of animals housed in zoos, the Recognition of Zoo Rules, 1992⁶⁷, were enacted. All state and union territory forest secretaries and chief wildlife wardens received an order in 1987 that prohibited the zoos from selling surplus animals to circuses and directed them to take appropriate measures. These regulations were recently updated and reintroduced as the 2009 Recognition of Zoo Rules⁶⁸.

The Wildlife (Protection) Rules⁶⁹ were published in 1995 to outline the central and state governments' designated recipients of notification about the recognition of crimes. In the same

⁶² Naveen M. Raheja v. Union of India (2000), AIR ONLINE 2000 SC 323 (India).

⁶³ India Const. Art 32.

⁶⁴ Prevention of Cruelty to Animals Act, 1960 (India).

⁶⁵ The Wildlife (Protection) Act, 1972 §63 (1) (b) (India).

⁶⁶ The Wildlife (Transaction and Taxidermy) Rules, 1973 (India).

⁶⁷ The Recognition of Zoo Rules, 1992 (India).

⁶⁸ The Recognition of Zoo Rules, 2009 (India).

⁶⁹ The Wildlife (Protection) Rules, 1995 (India).

year, the central government established two more regulations pertaining to certain plants for the granting of possession permits and stock declaration processes. Section 40A⁷⁰, In light of 2003 amendment to the Act, central government made a new regulation regarding stock declaration on the premise that appropriate hearing shall take place before Chief Wildlife Warden or any other competent authority.

To outline the credentials and experience of the National Tiger Conservation Authority members, the National Tiger Conservation Authority (Qualifications and Experience of Experts or Professional Members) Rules⁷¹, 2006. Through the 2006 Amendment of the Wildlife (Protection) Act, 1972, this has been granted legal approval under Section 38L⁷². Furthermore, the Tiger Conservation Foundation, which was founded in accordance with Section 38X⁷³ of the Act, was the subject of the National Tiger Conservation Authority Guidelines, 2007⁷⁴. Following the 2006 modification, the Tiger Conservation Authority Fund (Regulation) Guidelines, 2007⁷⁵ were also notified to regulate the functioning of the funds that are established under Section 38Q (2) of the Act⁷⁶.

Recent efforts made by India

The creation of National Policy for the Management of human-wildlife Conflict, 2019 is one of the measures the Indian government has taken in recent years to resolve the problem of human-wildlife conflict. The goal of the strategy is to encourage human-animal cohabitation while reducing the detrimental effects of wildlife on people and their property. In addition, the government has started a number of initiatives to deal with problems, including habitat loss, poaching, and the illicit wildlife trade. These consist of the Forest Conservation Act⁷⁷, the Wildlife Crime Control Bureau, and the National Tiger Conservation Authority.

The central government passed all these subordinate laws with the intention of ensuring that the laws pertaining to wildlife conservation and ecological improvement are properly

⁷⁰ The Wildlife (Protection) Act, 1972 §40 A (India).

⁷¹ The National Tiger Conservation Authority (Qualifications and Experience of Experts or Professional Members) Rules, 2006 (India).

⁷² The Wildlife (Protection) Act, 1972 §38 L (India).

⁷³ The Wildlife (Protection) Act, 1972 §38 X (India).

⁷⁴ The National Tiger Conservation Authority Guidelines, 2007 (India).

⁷⁵ Tiger Conservation Authority Fund (Regulation) Guidelines, 2007 (India).

⁷⁶ The Wildlife (Protection) Act, 1972 §38 Q (2) (India).

⁷⁷ The Forest (Conservation) Act, 1980 (India).

implemented.

Further, to curb illegal wildlife trade on a global scale, India, with the United Nations Environment Programme (UNEP), the World-Wide Fund for Nature India (WWF-India), and the Wildlife Crime Control Bureau (WCCB), TRAFFIC has established a set of devices to assistance law implementation agencies in India in their fight against wildlife smuggling in response to the growing use of air transport in wildlife trafficking.

Despite the efforts, wildlife trafficking remains a major problem in India. India's participation in CITES and its strict legislations which prohibit the trafficking of more than 1,800 species of natural plants, wildlife's, and their products, are insufficient to combat wildlife smuggling since they are often not properly implemented and because of lack of awareness among the citizens.

CONCLUSION

Despite the existence of stringent regulations, international obligations, and conservation measures, illegal wildlife trade continues to be an issue of major concern in India. This issue lies within the framework of wildlife crime, which has restricted from the black-market exploitation of colonization and cultural practices. India did implement comprehensive laws such as the Wildlife (Protection) Act, 1972⁷⁸, which came alongside India's participation in international treaties like CITES, but the extensive corruption, lack of proper enforcement, and thirst for wildlife as exotic pets drives the illegal trade. This not only disturbs the natural balance of ecosystems but also puts the economic development and livelihoods of the people who depend on wildlife resources at risk. Years of government action from establishing the Wildlife Crime Control Bureau to harsher punishments for offenders, have done little to stop wildlife trafficking. Open borders, lack of strong legal enforcement, and exploitation of loopholes make new laws ineffective. The aforementioned landmark court cases putting focus on exotic species capture the ongoing debate of judicial activism in wildlife laws enforcement but fail to address more pressing issues. To effectively deal with illegal wildlife trading, it is important to adopted an active and comprehensive strategy. It is vital to strengthen enforcement action foster co-operation between government and law enforcement agencies, improve technological monitoring, and increase general public awareness. Strengthening organized crime legislation, monitoring websites that deal in wildlife trade, and international co-operation

⁷⁸ The Wildlife (Protection) Act, 1972, No. 53, Acts of Parliament, 1972 (India).

can also dismantle criminal organizations involve in trafficking. Undoubtedly, protection and preservation of biodiversity is one of the most important moral responsibilities of every citizen in India. Fighting the sources of illegal wildlife activities and trade such as poverty, ignorance, and unreasonable consumption through sustainable development is essential. India can address this challenge and retain its stupendous wildlife legacy for the years to come only through the combined action of the government, judiciary, law and order enforcement agencies, and the society.

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