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Policy Brief

The Legislation that Revamped Priorities: An Assessment of the Wildlife Protection Act, 1972

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About the Organisation:

LexQuest Foundation (LQF) is an independent, non-profit, research and action organisation, established in 2014, in New Delhi. We are striving to create, advocate and implement effective solutions for a diverse range of development issues.

To endorse participative governance, we engage with a broad spectrum of stakeholders, from various sections of the society, to ensure that policy-making remains a democratic process. We utilize pragmatic and futuristic research to disseminate actionable knowledge to decision-makers, experts and the general public.

Our key activities include capacity and skill-building workshops, policy advisory programs, public outreach, and stakeholder consultations. We collaborate with the government, other organizations and individuals for impactful policy formulation and execution.

By employing sustainable and equitable solutions through our multidisciplinary, intersectional initiatives and programs, we are constantly working towards creating empowered communities.



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India, in the past, has attached great importance to connect man with nature for both to be able to cater to one another sustainably. India affirmed its status as the ‘[golden bird](#)’ of the World, a name the country earned in the pre-colonial era, as a result of the bountiful natural resources, exotic plantation, and animals she held. India and its resources, in the post-British rule and development phase post-independence, have received a huge beating owing to the toll rapid industrialization takes on resources where they are used relentlessly without giving them time to replenish. These include forests (timber), metals, minerals, and wildlife. The problem has led to an unbalanced ecosystem, one that needs to be immediately addressed.

This paper aims to critically analyze India’s iconic [Wildlife Protection Act \(WPA\)](#) which was introduced in 1972. One of the most revolutionary acts ever passed in the country, the WPA 1972 laid down clear guidelines that were much needed to ensure preservation and conservation of India’s wildlife. Down the course of time, the Act has witnessed a large number of amendments, some of which added to its glory while others struggled to do so. Here we take a look at the events that unfolded after its inception, the achievements and possible scope for the near future, followed by suggestions for the formation of a more effective policy.

Background:

The 1972 Stockholm Conference played a significant role in establishing the United Nations Environment Programme (UNEP). The Conference played an important role in [influencing](#) environmental laws in India including the Wildlife Protection Act, 1972 the first of its kind that aimed to protect all species of wildlife and awarded significant punishment from heavy fines to jail terms in cases of poaching and illegal trade. Before the implementation of the same, India had a handful of national parks and sanctuaries with no formal structure which specified the need to focus on such preservation on the part of the authorities. Under President V.V. Giri, what made the WPA legendary was the intricately detailed structure and finesse of the written regulations. The Act defines an animal as ‘amphibians, birds, mammals, and reptiles, and their young, and also includes, in the cases of birds and reptiles, their eggs.’ As a means to do away with any ambiguity which may arise later, the Act specifies as many as 40 other terms- these go on to include the formal definitions of ‘zoo’, ‘captured animals’, ‘person’, ‘livestock’,



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‘trophy’, ‘closed area’ etc. Chapter II of the Act calls for authorities like a ‘Wildlife Preservation Board’ to be appointed to uphold the aforementioned, with the Director of Wildlife Preservation seated at the apex. The Director, along with the Chief Wildlife Warden, was introduced as a position of immense power and decision-making capacity. The Chapters that succeed are centered around the stringent rules towards hunting, trade, protection of plants, and the need to create wildlife parks and sanctuaries. [Section 18 \(1\)](#) of the WPA states the following: ‘The State Government may, by notification, declare its intention to constitute any area other than area comprised with any reserve forest or the territorial waters as a sanctuary if it considers that such area is of adequate ecological, faunal, floral, geomorphological, natural or zoological significance, to protecting, propagating or developing wildlife or its environment.’ The provision for a ‘Central Zoo Authority’ at the national level under Chapter IV did not just clarify what the body’s everyday duties would be but also consisted of a detailed action plan to be undertaken by those in power to ensure the dignified acquisition of animals and smooth procedures to regulate any unauthorized structures.

First of its kind in a country which needed a strong shift towards the deteriorating quality of wildlife, the Act was also lauded for its timely existence, as it made India a party to the Convention of International Trade in Endangered Species of Fauna and Flora (CITES, 1976), a global platform for countries all over to team up towards the cause and share the benefits of mutual collaboration.

Another important point to focus on is the first-ever mention of endangered species in official government policy. India did not just promise to embark on a new journey but also conceived creative solutions concerning its very own biodiversity and current challenges. The same Act also went on to introduce captive breeding programs for critically endangered creatures like the Lion (1972), Tiger (1973), Crocodile (1974), and Brow Antlered Deer (1981).

Loopholes and Drawbacks of WPA 1972:

Although the conceptualization of such an Act led to a much-appreciated explosion of national parks, sanctuaries, and biosphere reserves, the potential of taking advantage of loopholes persisted. In the text [‘The Lacunae in Wildlife Protection Acts in India’](#), the author brings out poignantly how a country which is home to almost 3% IUCN



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designated threatened species, takes inadequate punitive measures to assure complete protection of its species. The lack of deterring punishment envisaged in the Wildlife Protection Act can only be termed dismal. A majority of illegal trades can be seen in consumer industries with the open flouting of the aforementioned laws by tourism, petting, and transportation. To consider a particular example, worldanimalprotection.org states how parts of the Act like [Section 40 provide](#) 'special status' to certain animals like the great elephant to be traded. Consequently, there has been a surge in their illegal trade for ivory, especially with the African subcontinent. A detailed article emphasizes how [77% of elephants](#), mostly in the tourism and entertainment industry are treated in rather appalling ways. Thus the failure of the intentions of the WPA can be seen in its transmission mechanisms across various States, where the plight of innumerable other animals is no different. Despite the construction of a special CITES Cell by the Ministry of Environment and Forests (MoEF), the protection of endemic and migratory species remains an integral yet unachieved challenge. Furthermore, it has been pointed out repeatedly how the concerned authorities do not include any experts on taxonomy, fishing, and scientific rearing practices. Strict focus on the emergence of sustainable R&D and scientific techniques like drones towards those sections which have been largely ignored have also cropped up, with some methods which continue to be adopted today as obsolete. Lack of specifications regarding how the country should tackle burning questions like harmless venom extraction from snakes, humane breeding grounds and low mortality rates for animals need to be introduced in the Act. In most of the provisions which call for 'exceptions' in the cases of animal ownership, treatment, or permit distribution, there has been an overwhelming amount of [corruption that spilled over](#) to many of the formal processes of the Act.

An interesting backfire can be seen in the contents of Sections [11\(2\)](#) which allow killing (or hunting perhaps) of wild animals in the name of self-defense, which led to an unintended rise in death rates, especially in areas which are widely known to be the home of locals who have been hunting animals for generations. The provision gives an excuse to the individual to claim that they had to kill the animal in the process of self-defense even if it was killed intentionally without provocation thus clearing them of any legal retribution. It has been widely circulated, ever since the inception of the WPA 1972, that a conflict between legislative intent hides behind no actions being



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undertaken, or as in a few cases, actions with opposite motives being pushed from time to time. If we are to consider an example for the aforementioned statement, the National Investment Board (NIB), which exercises greater authority than that by the MoEF, is responsible for speeding up economic growth. However, it has been observed that the NIB also puts at risk the environment, existing legislation on the environment and forest land, and the lives and livelihood of the marginalized. The decisions implemented by NIB, disguised under the garb of doing away with red-tape, [in reality, circumvent the environmental interests of the country](#) in lieu of short term economic goals and since the MoEF is considerably less influential, it is hardly able to counter the hasty and anti-environmental decisions that the NIB takes.

As brought out in the [intricately detailed analysis](#) by Dr. Madhukar S., particular clauses that need immediate attention include wildlife beyond forests residing in areas that find no place in the original Act. [National programs](#) need to emphasize on balancing the density of wildlife, maintain systematic records, and do away with provisions which are vague and open to diverse interpretation. Years after the introduction of the Act, poaching continues to be one of the largest reasons for leopard deaths in the country.

Expanding beyond Legality: What the Act can emulate from fauna conservation in New Zealand

The Wildlife Protection Act, while a comprehensive document in itself has come under criticism based on issues of practical application in cases ranging from illegal trade to accidental shooting of species leaving much to be accomplished in the area of species protection. The Act must be able to ensure the formation of a healthy ecosystem. In furtherance of its practicality, it can take inspiration from New Zealand's conservation sanctuary in Rotoroa Island that has created an entire ecosystem of its own. New Zealand, which is home to several endangered, exotic species is working around the clock to not only prevent their extinction but also to encourage them to grow in numbers. [Jonathan Wilcken](#), the director of Auckland Zoo, states that they were not aiming to recreate an ecosystem but to create an ecosystem anew. In a management document spanning over 64 pages, conservationists have discussed how they will bring in [20 species](#) over the next few years, having introduced 4 in less than a year as of 2015. The rebuilding idea which began with Kiwi, a bird specific only to New Zealand,



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expanded to include other threatened species in New Zealand. Home to native species like the Kiwi, Tieke, Takahe, Patek, and Skinks, the Rotoroa Island has been made a [predator-free zone sanctuary](#). It was closed to the public nearly 100 years ago with the Island comprising New Zealand's [first addiction center](#). Following extensive transformation to convert it to a sanctuary, it is now open to tourists under careful supervision. Threatened biodiversity that previously created massive issues with being able to sustain the fauna due to overhunting and excessing human activities is now a problem the ecosystem of the Island could potentially resolve. The authorities have taken the initiative of planting native trees and disallowing any human activity so that species may thrive naturally. Under our Wildlife Protection Act, we should look at actively implementing a similar ecological space that may be free from human intervention where endangered species can thrive.

Need for Amendments:

Despite efforts, irregularities existed in the execution of the WPA, especially in northern States, with [special reference to the territory of Jammu and Kashmir](#), following which there were reports of illegal trade of animals and their products, putting to risk species like the [hanguls, leopards, and the Himalayan musk deer](#). The [provisions for exceptions to the restrictions on hunting and poaching](#) were taken advantage of in several northern states, subsequently causing a lot of public uproar after cases involving the shooting of several endangered animals were brought to light. Naturally, it was only a matter of time that amendments to the Act were brought forth. From 1982-2017, the WPA saw various amendments, one of the most significant being [stricter punishments](#) for the offenders while also providing incentives for those [coming to the authorities](#) with valuable information regarding unknown perpetrators. The [amendment of 2002](#) made several changes to the existing Act. The amendment included sensitization, the inclusion of tribal populations, creative documentaries, and television shows to dispense knowledge, instant job opportunities, etc. Similarly, the [amendment in 2006](#) was aimed at tackling another big problem grappling the country- the possibility of tiger extinction. The amendment called for combating crimes against the national animal and other similarly threatened species through a [special Crime Control Bureau](#). A majority of the changes that were either proposed or brought about were to present a solution to some drawbacks of the original legislation. The lack of regulation in the cases of personal



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ownership certificates for animal articles like skins demanded stronger guidelines and provisions for distribution of such certificates so that it became more tough for people to hide behind the laws they continued to break. Furthermore, some drawbacks of the Act were that there was [‘no coverage therein of foreign endangered wildlife, pitiable conditions of wildlife in mobile zoos, and little emphasis on the protection of plant genetic resources’](#). Added to this, the [amendments of 2012](#) were predominantly focused on the mandatory consultation of Gram Sabhas and panchayats, from the formation of public policy to the revealing of national parks. The law made it compulsory to maintain a proper record of all meetings and agendas set up in collaboration with said organizations in matters which affect them substantially. Coming to more recent Bills brought up to tweak the WPA a little more, there was the [Wildlife Protection Amendment Bill of 2013](#) which set the precedent for factors that had been overlooked before. Some of the salient features of the same were the prohibition of ‘animal traps’ except for the use of scientific research and education purposes, which would require official permits. The Bill touches upon the rights and allowances of those living in nearby areas to include the use of water and livestock and also sought to bring the [Scheduled Tribes \(STs\) of Andaman and Nicobar islands within its realm](#). The need to encompass internationally traded endangered species keeping in line with the [CITES guidelines](#) was recommended. The [WPA Bill 2017](#), the most recent of them all added special regulations for rhino conservation with tremendous detail. [Chapter IVD](#) of the Bill states that the government must appoint an authority to be known as the National Rhino Conservation Authority paired with a panel of 4 esteemed professionals from the field of wildlife conservation with special emphasis on rhino reserve areas- one of them being an expert in tribal development. A steering committee endowed with the task of monitoring and coordinating the activities of rhino range states the Chief Ministers as heads and has been created to take care of avoiding forced closures of public land. Moving on to financial support in terms of grants and loans, the subsequent birth of the [Rhino Conservation Authority Fund](#) seeks to ensure a decent sum availed from the Central Government to be allocated towards protecting and nurturing the dwindling numbers of rhinoceros in the country.



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Policy Recommendations:

1. **Judicial Sanction:** The Act to date, lacks any provisions relating to added incentives or systems that need to be put in place to help achieve the aims of WPA 1972. Consequently, there is evidence of excessive delay and an overwhelmingly [low conviction rate](#) in situations relating to wildlife crimes. Given how each chapter in the WPA talks about one important factor, an introduction of judicial measures would require new entrants. Additions of case time constraints and a cap on the number of pending cases against wildlife have been widely demanded and can be addressed under these Chapters. What is thus needed is a legal motive '[to fight lack of sensitization](#)' and [to pursue aggressive enforcement](#)'.
2. **Structured Initiative:** The Act could go on to enumerate structures for highly skilled on-ground officials that possess specific skill sets to deal with the problem at hand. Local bodies with a specialized division of duties must be added to impart high organization arrangements at the grassroots level. Since there do not exist any such requirements in the WPA or any of the amendments that followed, provisions should include a new skill center, scholarships encouraging enrollment, and similar schemes to ensure a well prepared and well-equipped taskforce.
3. **The Double Attack of Man and Climate Change:** It becomes crucial to mention one hard-hitting reality. The agenda at hand faces two major enemies, climate change and man driven needs. For the former, India needs a more extensive WPA, encompassing the solutions to maintain a stable environment (air, water, land) and favorable climate to nurture its wildlife. The latter brings into picture the widespread corruption especially in terms of poaching and illegal trade of animals that continue to hamper the furtherance of the Act. 'Well-connected' poachers turn out to be those who are not just well to do but also do not take no for an answer. In such a case, rules and regulations cease to survive. As a matter of consequence, it has been widely agreed upon that subsequent chapters that may follow should aim at these very tasks at hand, specifically that of poaching. Extensions of the Act could include the adoption of separate regulation channels in the cases relating to environmental harm and a new line of stricter offenses in line with the provisions of the Wildlife Crime Manual. As of this moment, what



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the WPA mandates is wildlife protection through rules and regulations in a field quite narrow, which needs to be widened enough to affect other important defining factors.

4.Miscellaneous Factors which need Adequate Consideration: Lack of education, man-animal conflict, lack of awareness, unregulated tourism, untrained wildlife staff, lack of infrastructural facilities, etc., are all vast subtopics within themselves that although have been paid heed to in subsequent amendments of the Wildlife Protection Act need more work on the specificity of implementation and execution.

5.Provisions for Education and Awareness: Rather than allowing hunting in cases of education and scientific management as the WPA does, the law could be made more detailed, replacing hunting with breeding programs for endangered species. Encouragement of education and R&D in such fields coupled with new job opportunities for the youth will have a substantial impact on how the next generation relates to its environment. This can also be achieved if the WPA 1972 is amended to include the availability of environmental education as a core subject, mandatory park visits, incentives towards R&D in the sectors of preservation and conservation. Similar additions could be in the fields of tourism and entertainment, bringing issues of their non-compliance in the limelight.

6.Integration of Agendas: Furthermore, the law needs a stronger incentive for forest officials to be effective in their work, regulation, and financial support. As mentioned earlier, the issues of conservation, education, and judicial sanctions are not waterproof compartments. Unless the legislative, executive, and judiciary come together to bring about well-rounded implementation, there will always be negative effects to be considered.

Concluding Statement:

Sustainable Development first mentioned and defined in the [Brundtland Report](#) in 1987 was meant to meet the human goals of development without causing irreparable damage to the ecosystem such that future generations would have enough to live by. Conserving the ecosystem became a priority for nations as all suffered the scourge of



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global warming and climate change. The urgency to adopt sustainable measures to be able to conserve the ecosystem against increased human activities is now more pressing than ever. Unless the ecosystem is conserved, no developmental progress will be long-lasting. The ecosystem interconnects living beings to the environment- the fall of one would automatically result in the fall of the other. We, as a country, need to take cognizance of the fact that rapid industrialization cannot negate the ecosystem and its functionalities.



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References:

1. [The Wildlife \(Protection\) Act, 1972](#)
2. [Man and the Biosphere \(MAB\) Programme](#)
3. [Wildlife Crime Investigation: A Handbook for Wildlife Crime Investigation Officers, Wildlife Crime Control Bureau, Ministry of Environment and Forests, Government of India](#)
4. [The Wildlife Protection \(Amendment\) Bill, 2013](#)
5. [The Wildlife Protection \(Amendment\) Bill, 2017](#)
6. [Protect Elephants](#), World Animal Protection
7. [The Lacunae in Wildlife Protection Laws in India](#), Akash S. Karmakar
8. [Empirical Study on Implementation of Wildlife Protection Laws in India](#), Symbiosis Law School, NOIDA