

REPORT
NO.
253



सत्यमेव जयते

PARLIAMENT OF INDIA
RAJYA SABHA

DEPARTMENT-RELATED PARLIAMENTARY STANDING COMMITTEE
ON SCIENCE & TECHNOLOGY, ENVIRONMENT & FORESTS

TWO HUNDRED FIFTY THIRD REPORT

"THE WILD LIFE (PROTECTION) AMENDMENT BILL, 2013"

(Presented to the Rajya Sabha on 11th December, 2014)
(Laid on the Table of Lok Sabha on 11th December, 2014)



Rajya Sabha Secretariat, New Delhi
DECEMBER, 2014/ AGRAHAYANA, 1936 (SAKA)

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RAJYA SABHA SECRETARIAT
NEW DELHI
DECEMBER, 2014/ AGRAHAYANA, 1936 (SAKA)

(v)

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*To be appended at printing stage

COMPOSITION OF THE COMMITTEE (2013-14)

1. **Dr. T. Subbarami Reddy** — *Chairman*

RAJYA SABHA

2. Shri Vijay Jawaharlal Darda
3. Shri M. Rama Jois
4. Shri Rama Chandra Khuntia
5. Shri Rabinarayan Mohapatra
6. Shri Paul Manoj Pandian
7. Shri T.M. Selvaganapathi
8. Smt. Maya Singh
9. Shri Alok Tiwari
10. Shri Ram Kripal Yadav

LOK SABHA

11. Shri K.C. Singh "Baba"
12. Smt. Bijoya Chakravarty
13. Shri K. Jayaprakash Hegde
14. Shri Marotrao Sainuji Kowase
15. Dr. Ajay Kumar
16. Shri O.S. Manian
17. Shri Dayanidhi Maran
18. Shri Basori Singh Masram
19. Shri Vincent H. Pala
20. Shri Natubhai Gomanbhai Patel
21. Smt. Kamla Devi Patle
22. Shri Ramashanker Rajbhar
23. Shri M.B. Rajesh
24. Shri Tathagata Satpathy
25. Shri Yashvir Singh
26. Smt. Supriya Sule
27. Shri Pradeep Tamta
28. Shri Joseph Toppo
29. Shri Mansukhbhai D. Vasava
30. Shri Ramakant Yadav
31. Prof. (Dr.) Ranjan Prasad Yadav

SECRETARIAT

Dr. D.B. Singh, Additional Secretary
Shri Alok Chatterjee, Director
Shri V.S.P. Singh, Joint Director
Shri Girija Shankar Prasad, Deputy Director
Shri Deepak Kalra, Assistant Director
Shri Rajiv Saxena, Committee Officer

COMPOSITION OF THE COMMITTEE (2014-15)

1. Shri Ashwani Kumar — *Chairman*

RAJYA SABHA

2. Shri Anil Madhav Dave
3. Shri Prem Chand Gupta
4. Shri C.P. Narayanan
5. Shri Paul Manoj Pandian
6. Dr. T. Subbarami Reddy
7. Shri Arvind Kumar Singh
8. Shri Bhupinder Singh
9. Shrimati Bimla Kashyap Sood
10. Shri Ronald Sapa Tlau

LOK SABHA

11. Shri Badruddin Ajmal
12. Shri Muzaffar Hussain Beig
13. Shrimati Bijoya Chakravarty
14. Shri Pankaj Chaudhary
15. Shri Prabhatsinh Pratapsinh Chauhan
16. Kum. Sushmita Dev
17. Shri Ninong Ering
18. Shri Laxman Giluwa
19. Dr. K. Gopal
20. Shri Daddan Mishra
21. Shri Shivaji Adhalrao Patil
22. Shri Nana Patole
23. Shri Nagendra Kumar Pradhan
24. Shri Harinarayan Rajbhar
25. Shrimati Sandhya Roy
26. Shri Kirti Vardhan Singh
27. Shri Nagendra Singh
28. Shrimati Renuka Sinha
29. Shri Vikram Usendi
30. Shrimati Vasanthi M.
- #31. Vacant

SECRETARIAT

Shri M.K. Khan, Joint Secretary

Shri Rohtas, Director

Shri V.S.P. Singh, Joint Director

Shri Rajiv Saxena, Assistant Director

Shri Ram Kripal Yadav ceased to be a member of the Committee consequent upon his induction in the Union Council of Ministers w.e.f. 9th November 2014.

PREFACE

I, the Chairman of the Department-related Parliamentary Standing Committee on Science & Technology, Environment & Forests, having been authorized by the Committee to present the Report on its behalf, present this Two Hundred and Fifty Third Report on "The Wild Life (Protection) Amendment Bill, 2013".

2. In its meetings held on 3rd December, 2013, 24th February and 30th October, 2014, the Committee heard the views of the Secretary, Ministry of Environment, Forests & Climate Change and on 4th March, 2014, the Committee heard the views of Chairman & Members of Expert Committee constituted by the Standing Committee of the National Board for Wildlife on the provisions of the Bill.

3. In the meeting held on 10th December, 2014, the Committee considered the draft report and adopted the same.

NEW DELHI:
10th December, 2014

ASHWANI KUMAR
Chairman,
Department-related Parliamentary Standing Committee
on Science & Technology, Environment & Forests.

ACRONYMS

CITES : Convention on International Trade in Endangered Species of Wild Fauna and Flora

WLPA Bill : Wild Life (Protection) Amendment Bill, 2013

REPORT

The Wild Life (Protection) Act, 1972 provides the legal framework for the protection of various species of wild animals, management of their habitat and also for the regulation and control of trade in the products derived from various parts of wild animals. The Act has been amended earlier in 1982, 1986, 1991, 1993, 2003 and 2006.

2. The Wild Life (Protection) Amendment Bill, 2013 (hereinafter referred to as the Bill) was introduced in the Rajya Sabha on the 5th August, 2013 and referred to the Department related Parliamentary Standing Committee on Science & Technology, Environment and Forests on the 7th August, 2013 for examination and report.

3. The Bill, *inter alia*, proposes to insert new definitions in view of the amendments proposed in the Act; provide for prohibition on use of animal traps except under certain circumstances; provide for grant of permit for scientific research; make provisions relating to CITES so as to control illegal international trade in wild life; increase the punishment for offences under the Act; make provision considering certain activities, such as, grazing or movement of livestock, bona fide use of drinking and household water by local communities, etc., as non prohibitive; provide for protection of hunting rights of the Scheduled Tribes in the Union Territory of Andaman and Nicobar Islands; insert a new Schedule VII to the Act so as to include the Appendices listing out flora and fauna for purposes of regulation of international trade under CITES and make certain consequential and other amendments to the Act.

4. Considering the significance of the Bill, the Committee issued a Press Release in National Dailies and other regional newspapers on 31st August, 2013, inviting Memoranda from experts/individuals/organisations interested in the subject matter of the Bill. The Committee received 7617 Memoranda in response to the Press Release. On scrutiny, most the Memoranda were found to be repetitive and identical in nature and only 14 Memoranda contained issues of substantive nature which were forwarded to the Ministry for their response/comments. The Comments of the Ministry were received on 20th November, 2013.

5. The Committee held preliminary discussion on the Bill in its meeting held on 26th September, 2013 and heard the views of the Secretary and other senior officers of the Ministry of Environment & Forests at its meeting held on 3rd December, 2013. The Committee then heard the views of the Chairman and Members of the Expert Committee on provisions of the Bill along with the representatives of the Ministry of Environment & Forests at its meeting held on 4th March, 2014.

6. Meanwhile, the term of the Chairman of the Committee expired on 9th April, 2014 and later on the Committee stood dissolved *w.e.f.* 18th May, 2014 consequent upon the dissolution of Lok Sabha. The newly constituted Committee at its meeting held on 30th October, 2014 heard the Secretary and other officers of the Ministry of Environment, Forests and Climate Change on the Bill. During the meeting, the Secretary informed the Committee that:-

"The Government has, while reviewing the status and the contents of the present Bill, which was introduced in the Parliament, taken a view that the Bill should be withdrawn and the provisions of the Act as well as the proposed amendments need to be reviewed, along with several other issues which pertain to wildlife protection, which also originate from various international conventions to which

India is a party. Some of the issues which have become important and which the Government would like to address while bringing a comprehensive amendment include the inclusion of plant species in the schedules of the Act so that they can also be adequately protected, protection of wildlife other than Scheduled species, mandate of wildlife authorities in areas which are beyond the protected areas, to introduce some of the enabling provisions for the implementation of CITES, and empowering the officials of the Wildlife Crime Control Bureau. So, these are some of the important features. The Members would also be aware that Government has appointed a High-level Committee under the Chairmanship of ex-Cabinet Secretary, Mr. T.S.R. Subramanian, which also has legal experts and experts in different fields of environment. This Committee has been specifically tasked with making recommendations on reforms which are required in various Acts which govern the functioning of the Ministry of Environment, Forests and Climate Change. The Wildlife Protection Act is one of them. The Committee has had a number of sittings, including consultation with various State Governments and expert bodies, and they are likely to submit their report within a month or so. So, we would like to also benefit from the recommendations which emerge from that Committee".

7. Thereafter, the Ministry *vide* its communication dated 19th November, 2014 further informed that subsequent to the introduction of the Bill, the Ministry is of the view that several more issues like inclusion of plant species in schedules for adequate protection, protection of wildlife other than scheduled species, mandate of wildlife authorities in areas beyond protected Areas, enabling provisions for CITES implementation, etc. are required to be covered in the Wild Life (Protection) Act, 1972. It was, therefore, felt that the Wild Life (Protection) Amendment Bill, 2013 be withdrawn for preparation of a comprehensive amendment proposal.

8. Subsequently, *vide* letter dated 3rd December, 2014 the Ministry of Environment, Forests and Climate Change further intimated that steps had been taken to obtain approval of Hon'ble Prime Minister for withdrawal of the Bill as per Rule 9.13 of the Manual of Parliamentary Procedures and action for seeking post facto approval of the Cabinet was also in progress. The Ministry has also forwarded a statement on the withdrawal of the proposed Wild Life (Protection) Amendment Bill, 2013. The statement is at Annexure-I. The notice of Motion dated 4th December, 2014 given by the Minister of Environment, Forests and Climate Change for withdrawal of the Bill is at Annexure-II.

9. **In view of the decision of the Ministry of Environment, Forests and Climate Change to withdraw the Bill to undertake a comprehensive review of the present Act, the Committee feels that no useful purpose will be served by examining the provisions of the existing Bill. The Committee, therefore, decided not to pursue the Bill any further and recommends that the Government may revisit all aspects of The Wild Life (Protection) Act, 1972 in a holistic manner and come out with a comprehensive Bill.**

ANNEXURE

Ministry of Environment, Forests and Climate Change
Statement on Withdrawal of the proposed Wild Life Protection Amendment Bill
2013

The Wild Life (Protection) Act was enacted in 1972 and it has undergone amendments in 1982, 1986, 1991, 1993, 2003 and 2006. One more amendment has been introduced in Rajya Sabha and is with the Parliamentary Standing Committee on Science & Technology, Environment & Forests for scrutiny. A few sittings have taken place and report is awaited.

The present Act primarily provides a framework for wild life protection in the country for the states. The Act places primary responsibility of protection on the Wild Life Authorities of the state and places most of the powers for protection and conservation with the states, including framing of rules for most of the provisions. The provisions are primarily grouped into following categories:

1. Institutions - Wildlife Preservation Officer, National and State Boards for Wildlife, National Tiger Conservation Authority (NTCA), Central Zoo Authority (CZA), Wildlife Crime Control Bureau (WCCB).
2. Hunting of Wild Animals - General principles of wildlife protection, protection of some specified plants (Species)
3. Wildlife Areas – Protected Areas (PAs) and processes for their declaration and management (Habitats)
4. Trade or commerce in wild animals and their articles (Use of biodiversity)
5. Prevention, detection of offences including punishments, procedures and related matters (enabling mechanisms)

Since the time this law was enacted, scope of wild life protection has undergone a sea change and now covers biodiversity in whole - ranging from species to ecosystem complexes in landscapes. Wild life protection action has become much more challenging due to the approach of earmarking of Protected Areas for preservation of life forms, species specific conservation over the earlier habitat based approach, and now landscape based conservation strategies with human existence included as the new norms. In such circumstances, the scope of Wild Life (Protection) Act, 1972 (WLPA), which is the only law facilitating conservation action for biodiversity, needs to be widened much beyond the existing one. Following points are specifically needed to be addressed in the review.

- i) Definitions of wildlife including wild animals alone is not sufficient. Species of other life forms which do not come under the category of wild animals need to be covered under the law for which suitable changes are required.
- ii) Hunting is prohibited as a policy and therefore, so is provided in the law. The definition of hunting covering any activity focussed on animals makes management cumbersome due to legal restrictions. For example, cultural practices like payers to wild animals on religious occasions, photography of wild animals or capturing for radio-collaring or rescue etc. comes within the definition of hunting. Thus the term hunting needs to be qualified for intention of hurting the wildlife as different from bona fide actions.
- iii) Provisions for exceptional permission for hunting (like photography, capture for research, translocation etc.) are much restrictive in the law itself. As a result in case of overpopulation in certain cases, management by population control is not possible.

- iv) The matters related to research and conservation action, including regulation is possible largely for the scheduled animals only. Animals and plants, which are not part of schedule, are out of purview of regulation due to which legal issues sometimes cause difficulty in enforcement. For example, black kites are not part of Schedules. Therefore any action related to such species cannot be regulated under the act unless the action occurs within a national park or wildlife sanctuary.
- v) The provisions related to removal of forest produce from a sanctuary, indicating its use only for personal bona fide needs of the people living in and around the PA and not for commercial purpose, restrict the appropriation of any produce, which may be required to be removed from a PA for conservation purpose. For example, removal of large quantity of flowered bamboo from a PA after gregarious flowering becomes necessary due to fire hazard and it cannot be consumed by the local people.
- vi) There is no provision related to trade or any activity related to exotic species. Thus exotic birds are imported/ smuggled into the country and due to absence of a law for their trade; indigenous species are dealt under garb of exotics.
- vii) In the provisions for declaration of possession/ownership of various scheduled species, provisions are confusing. Thus, while transfer of ownership of scheduled I animals by inheritance is possible, ownership of offspring of the captive animals is not defined. Trade of peacock feathers is exempted from regulations but being a product of a schedule I animal, requirement of declaration of possession ownership is not exempted, while at the same time, sunset provision for declaration forbids possession without ownership certificate.
- viii) Large number of trophies are imported by many Indian citizens after hunting in several countries with legally obtained game licenses. Any curb on this to curb tendency of glorifying hunting and keeping wildlife trophies is sometimes challenged in courts of law. A policy for restricting the number has been put in place which is to be factored in within the Act.
- ix) The laws for declaration of various Protected Areas (PAs) do not provide complete processes for alteration/denotification of such areas, which causes doubt over the processes and therefore, renders the states hesitant to notify more areas as PAs.
- x) In the proposed amendment, a full chapter detailing all the provisions of CITES has been provided with a Schedule VII containing all the three appendices of CITES. As provisions of CITES keep changing due to frequent reviews of conservation status of the species covered, corresponding changes cannot be undertaken so frequently in the schedules in WLPA. In such circumstances, modification of schedules of the Act itself can become difficult than enforcing it.
- xi) In some of the judgements of Hon'ble Supreme Court of India, need of a law similar to Endangered Species Act of USA has also been expressed. WLPA in spirit conforms to the needs of habitats and species and provides for protection of species based on their threat status. But the limitations mentioned above indicate need of a fresh look at the Act and a complete review thereof.

Therefore, it is proposed to withdraw the proposed Wild Life (Protection) Amendment Bill 2013, in order to undertake a comprehensive review of the present Act, after

conducting a policy dialogue on the needs of law for ensuring conservation of life forms, plants and animals with the ecosystems and habitats, within and beyond Protected Areas, and also comparing it with the corresponding laws of other countries.
