

**A COMPARATIVE STUDY OF WILDLIFE PROTECTION ACT OF 1972 AND  
WILDLIFE (PROTECTION) AMENDMENT BILL, 2013 WITH REGARD TO  
NATIONAL PARKS, SANCTUARIES AND CLOSED AREAS**

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**ABSTRACT**

The wildlife protection act of 1972 regarding sanctuaries and natural parks provided for general rules regarding scope of protection. The amendment bill of 2013 is more specific regarding management of these reserves, its management and control measures. The fast decay of wild animals and birds in India has been a reason for grave concern. The long title of the 1972 Act has additionally been corrected and now from the altered title of the 1972 Act it is clear that said act has been enacted for the accompanying two purposes namely, protection of wild animals and for birds and plants\ecological and environmental security. The bill of 2013 promotes the objects of act and fulfills all the flaws caused by the act, by concentrating more on management and acquiring mechanisms of closed areas and converting them to national parks/ sanctuaries, and by increasing punishment amount and term. The Wildlife Protection Act, 1972 is an Act of the Parliament of India enacted for protection of plants and animal species. Before 1972, India only had five designated national parks. Among other reforms, the Act established schedules of protected plant and animal species; hunting or harvesting these species was largely outlawed. The Act provides for the protection of wild animals, birds and plants; and for matters connected therewith or ancillary or incidental thereto. It extends to the whole of India, except the State of Jammu and Kashmir which has its own wildlife act. It has six schedules which give varying degrees of protection. Schedule I and part II of Schedule II provide absolute protection - offences under these are prescribed the highest penalties. Species listed in Schedule III and Schedule IV are also protected, but the penalties are much lower. Schedule V includes the animals which may be hunted. The specified endemic plants in Schedule VI are prohibited from cultivation and planting. The hunting to the Enforcement authorities have the power to compound offences under this Schedule (i.e. they impose fines

on the offenders). Up to April 2010 there have been 16 convictions under this act relating to the death of tigers.

**Keywords:** wildlife, protection, national parks, sanctuaries, closed areas, management, control, punishment.

## INTRODUCTION

The wildlife protection act of 1972 regarding sanctuaries and natural parks provided for general rules regarding scope of protection. The amendment bill of 2013 is more specific regarding management of these reserves, its management and control measures. The fast decay of wild animals and birds in India has been a reason for grave concern. Some wild animals and birds have just turned out to be wiped out in the nation and others are in risk of being so. Zones which were once naming with natural life have turned out to be without it and even in Sancturies and National Parks the protection stood to natural life should have been moved forward. The Wild Birds and Animal Protection Act, 1912 had turned out to be totally outdated. The existing state laws were obsolete as well as gave disciplines which were not comparable with the offense. The most critical enactment on Wildlife protection which depends on the environment approach and an administrative administration of summon and control is the Natural life Protection Act, 1972. The targets of this enactment were three overlay, i.e., to have a uniform enactment on wildlife all through the nation to build up a system of ensured regions, i.e., National Parks and Sancturies and to manage unlawful exchange wildlife and its items. The Wild Life (Protection) Amendment Bill, 2013 was presented in the Rajya Sabha on August 5, 2013. The Bill has been alluded to the Standing Committee on Environment and Forests. The Bill looks to correct the Wild Life (Protection) Act, 1972. This Act accommodates the protection and preservation of wild creatures, flying creatures and plants. It additionally covers the administration of their territories and direction and control of exchange or business connected to natural life. The most critical enactment on Wildlife protection which depends on the biological community approach and an administrative administration of order and control is the Wildlife life Protection Act, 1972. The goals of this enactment were three overlap, i.e., to have a uniform enactment on wildlife all through the nation to build up a system of ensured zones, i.e., National Parks and Sancturies and to manage unlawful exchange wildlife and its items. The Wild Life (Protection) Amendment Act, 2002 has made significant changes in the Wild Life Protection Act, 1972. The long title of the 1972 Act has additionally been corrected and now from the altered title of the 1972 Act it is clear that said act has been enacted for the accompanying

two purposes : i) protection of wild animals, birds and plants; ii) ecological and environmental security([Rodgers 2013](#))

#### **Objects and Aims of the research:**

This study aims to-

- Analyse the meaning and objects of section 125 of CrPC
- Explain the importance of the maintenance with important case laws
- Analyse the procedure of filing for maintenance and its effects and benefits

#### **Sources and Methodology of study:**

This research work entirely depends upon secondary sources, which is based on the information illuminated in books and legal articles. The study is a non doctrinal study and is dependent on books, articles by eminent advocates and judges and online sources and online articles.

#### **Hypothesis**

The amendment bill of 2013 provides stringent measures of penalties in order to control and regulate the wildlife protection from anyone who transgress marked legal boundaries, and is better than the act of 1972, in matters of control and management.

#### **SALIENT FEATURES OF THE 1972 WILDLIFE PROTECTION ACT REGARDING CLOSED AREAS, SANCTUARIES AND NATIONAL PARKS**

The Wildlife Protection Act, 1972, accommodates protection to recorded types of vegetation and builds up a system of environmentally imperative ensured areas. The Act comprises of 60 Sections and VI Schedules-isolated into Eight Chapters.[1] The Wildlife Protection Act, 1972 enables the focal and state governments to pronounce any zone a wildlife asylum, national stop or closed territory. There is a sweeping restriction on doing any mechanical activity inside these secured areas. It accommodates experts to direct and execute the Act; manage the chasing of wild creatures; secure determined plants, asylums, national parks and closed areas; limit exchange or business in wild creatures or creature articles; and incidental issues.

The Act restricts chasing of creatures aside from with consent of approved officer when a creature has turned out to be hazardous to human life or property or as crippled or sick as to be past recuperation. ([Duffey 1990](#))

The Act experienced numerous changes. A change to the Act in 1982, presented arrangements allowing the catch and transportation of wild creatures for the logical administration of creature populace. A revision in the year 1991 brought about the addition of the exceptional sections managing the protection of determined plants and the direction of zoos. This additionally perceived the necessities of ancestral and woodland occupants and changes were acquainted with propel their welfare. The close aggregate restriction on chasing was made more viable by the Amendment Act of 1991.[2]

### **Management of closed areas: Sanctuaries**

Section 18 gives that the State Government may, by notification, announce its aim to constitute any zone other than territory contained with any save backwoods or the regional waters as a sanctuary in the event that it considers that such region is of satisfactory biological, faunal, flower, geomorphological, normal or zoological essentialness, to protect, proliferating or creating wildlife or its condition. For the motivations behind this segment, it might be adequate to portray the region by streets, waterways, edges, or other surely understood or promptly coherent limits.(Naseem 2011)

The *Chief Wildlife Warden*[3] may, on an application, give to any individual an allow to enter or dwell in a sanctuary for the accompanying purposes;(Bajaj 1996)

- a) Investigation or investigation of wildlife and any reason auxiliary or accidental thereto;
- b) Photography
- c) Scientific research
- d) Tourism
- e) Transaction of legitimate business with any individual in the sanctuary

Just an open hireling on obligation or allow holder or a man having a directly finished resolute property inside the cutoff points of a sanctuary, individual going through pathway in the sanctuary and dependants of the above can likewise enter or dwell in the sanctuary.[4] (Duffey 1990; Guha, n.d.)

In *Gujarat Navodaya Mandal V. State*,[5] the Gujarat High Court watched that there is nothing illicit in offering authorization to set down pipeline in and through the Marine

National Park/Sanctuary, Jamnagar. Since all the conceivable measures are taken to secure the nature and condition. A more over yonder were conditions on authorization to legitimate administration and additionally for the change of wildlife.

### National parks

The state government, to protect, engendering or creating wildlife may by a notification pronounce that a territory, by reason of its biological, faunal, flower, geomorphological or zoological affiliation or significance, should have been constituted as a National Park. Once a National Park is pronounced, no modification of the limits might be made aside from on the determination go by the lawmaking body of the state. In *Animal and Environment Legal Defense Fund V. Association of India* ,[6] which was a writ request of came to Supreme Court, the candidates recorded the appeal to testing the legitimacy of giving grants for angling to 305 innate families in repositories inside the Pench National Park (Madya Pradesh). However, the Supreme Court embraced philanthropic approach remembering the financial supportability and condition insurance. The Supreme Court coordinated the woods experts and wildlife specialists to take satisfactory measures to secure the earth and in the meantime keep watch on the villagers. The villagers were likewise coordinated not to enter different zones other than the supply.([IUCN Commission on National Parks and...](#))

### Punishments

Given that where the offense submitted is in connection to any creature indicated in *Scheduled I or Part II of Schedule. II*, or meat of any such creature, creature article, trophy, or uncurled trophy got from such creature or where offense [relates to chasing in, or, adjusting the limits of] a sanctuary or a National Park, such offense should be culpable with detainment for a term which might not be under [one year] but rather may reach out to *six years* and furthermore with fine which might not be under *five thousand rupees*. Given further that on account of a moment or resulting offense of the nature specified in this sub-section, the term or detainment may stretch out to six years and should not be under two years and the measure of fine might not be under ten thousand rupees .Any individual who contradicts any arrangements of *Chapter VA*, [Prohibition of Trade or Commerce in Trophies, Animal Articles, and so on got from Certain Animals.] might be culpable with detainment for a 7 term which should not be less then one year but rather which may reach

out to seven years and furthermore with fine which might not be under five thousand rupees.  
[7]

Any individual who negates the arrangements of *Section 38* [tease, attack, harm or nourish any creature or make aggravation the creatures by clamor or something else, or litter the grounds in a zoo] should be culpable with detainment for a term which may reach out to a half year or with fine which may stretch out to two thousand rupees, or with both.[8]

### **HIGHLIGHTS OF THE 2013 WILDLIFE PROTECTION BILL REGARDING CLOSED AREAS**

The Wild Life (Protection) Amendment Bill, 2013 was presented in the Rajya Sabha on August 5, 2013.[9] The Bill has been alluded to the Standing Committee on Environment and Forests. The Bill tries to correct the Wild Life (Protection) Act, 1972. This Act accommodates the assurance and preservation of wild creatures, winged animals and plants. It additionally covers the administration of their territories and direction and control of exchange or trade connected to wild life. Under the Act, obliteration, misuse or expulsion of any wildlife including woodland create from a sanctuary isn't allowed, aside from with an allow. [\(Bisht 2016\)](#)

The amendment permits certain exercises, for example, touching or development of domesticated animals, true blue utilization of drinking and family unit water by neighborhood groups, and chasing under a permit. Provisions to direct international exchange imperiled types of wild fauna and greenery according to the CITES have been embedded. A timetable drilling down vegetation for reasons for direction of international exchange under CITES has been included. The term of penalty and fines for commission of offenses under the Act have been expanded.[10]

Amendment regarding scheduled areas: sanctuaries

Amended section 35 states that given that the State Government ought to proclaim its goal to constitute any zone which falls under the Scheduled Areas as a National Park in conference with the Gram Sabha concerned.[11]

(2), the accompanying sub-section should be embedded, in particular:—

(2A) The notice alluded to in sub-section (1) should, wherever accessible, incorporate important points of interest of woodlands (counting backwoods compartment number) what's more, income records relating to the region proposed to be proclaimed as a National Park.

Community reserves land as forests

As per section 36, (2A) Where a community reserve is pronounced on private land under sub-section (1) of section 36C, the Community Reserve administration board of trustees should comprise of the proprietor of the land alongside an agent of the State Timberlands or Wild Life Department under whose locale the Community Reserve is found and furthermore the agent of the Panchayat concerned or the inborn community, all things considered.

Importance of amended bill reflected in following case law:

In *Vikash Mahto v. Union of India through the Secretary, Environment and Forest, Government of India*, [12] the court held that, as far as section 38(c) of Wildlife (Protection) Act, 1972 (amended) 2006, Jharkhand Tiger Reserve Conservation Foundation Rules, 2013, in consonance with the amendment Bill of 2013, has additionally been confined. The Rules accommodate constitution of the Foundation headed by the Hon'ble Minister, Forest and Environment, Government of Jharkhand, Principal Secretary, Forest and Environment, as the Vice-Chairman, Principal Chief Conservator of Forest, Wildlife and Chief Wildlife Warden, Jharkhand as its Member Secretary other than different individuals. Govern 5 likewise endorses the obligations and duty of the Management Board of the Foundation. According to run 5(Ch), meeting of the Management Board of the Foundation are to be held at endorsed interims, in any event once in a year, ideally in the primary month of the monetary year. The Rules likewise recommend formation of an Executive Committee which is led by the Chief Conservator of Forest cum Field Director, Palamau Tiger Reserve, Medininagar with the Divisional Forest Officer, Core Area, PTR as a Member Secretary and a few other authority delegates. The obligations and duty of the Executive Committee have additionally been set down. Thus the amplified powers of the forest officers will be considered.

Enhancement of penalties under the bill

· As per section 50, Amid any request or trial of an offense under this Act, where it appears to the Judge or Magistrate that there is by all appearances case that any property counting vehicles and vessels, seized under condition (c) of sub-section (1) was engaged with any path in the commission of an offense under this Act, the Judge or on the other hand Magistrate might not arrange for the arrival of such property to its legitimate proprietor until the finish of

the trial of the offense despite anything contained in section 451 of the Code of Criminal Procedure, 1973.[13]

· Under section 51, any individual who negates any arrangement of this Act or any lead or arrange made there under, or terms and states of any permit or allow conceded under this Act, should be blameworthy of an offense against this Act, and might, on conviction, be at risk to be rebuffed in the way determined under sub-sections (2) to (7).

· As per section 51A, where the offense identifies with contradiction of some other arrangement of this Act, including disruption of closed areas, or on the other hand any control or request made there under, or the rupture of any of the terms and states of any permit or allow conceded under this Act, such offense might be culpable with detainment for a term which may stretch out to three years and furthermore with fine which may reach out to twenty five thousand rupees: Given that on account of a moment or resulting offense of the nature specified in this sub-section, the term of detainment should not be under three years but rather which may stretch out to five years and furthermore with fine which should not be under fifty thousand rupees.

#### Importance of CITES

Convention on International Trade in Endangered Species of Wild Fauna and Flora was marked in March 1973. The Government of India marked the Convention in July 1976, which was approved in October 1976. The Director, Wild Life Preservation has been assigned as the CITES Management Authority for India. The requirement of the arrangements of CITES is completed by the Regional Deputy Directors, Wild Life Crime Control Bureau, who have likewise been assigned as the Assistant CITES Management Authority for India.

Aside from the Regional Deputy Directors, the Customs Authorities, State Forest

Departments are likewise engaged with the implementation of the Convention. An amendment to the Wild Life (Protection) Act 1972 has been proposed for coordinating the arrangements of CITES in the national law for viable execution of the Convention([Bajaj 1996](#))

· The Ministry of Environment and Forests has additionally constituted a CITES Cell on tenth September 2010 to help the Government of India in CITES execution. India has taken a few activities as of late at national level to construct limit with respect to better CITES execution in the nation.[14]



**CRITICAL COMPARISON OF PROVISIONS WITH REFERENCE TO 1972 ACT  
AND 2013 BILL**

· ***Punishment***

The Bill tries to present energy of passage, inquiry, capture and detainment on any officer approved by the Management Authority or any traditions officer not underneath the rank of an examiner or any officer of the drift watch not beneath the rank of an Assistant Commandant. The act of 1972 doesn't provide much importance to these factors.

· ***Counter crimes within closed and protected areas***

The Bill looks to manage the genuine wildlife wrongdoing, for example, the offense identified with any creature indicated in Schedule I or Part II of Schedule II or the meat of such creature or creature article, trophy, or uncured trophy got from such creature. On the off chance that a wrongdoing of this sort is conferred, the bill looks to rebuff the offenders with detainment for a term which might not be under five years, but rather may reach out to seven years and furthermore with fine which should not be under 1 lakh rupees but rather may stretch out to 25 lakh rupees. The stipulated punishment and reckoned penalty amount was not given importance in the 1972 act.

· ***More importance to CITES***

The bill likewise has the arrangements for the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). It accommodates denial on utilization of creature traps aside from under certain circumstances. It accommodates protection of chasing privileges of the Scheduled Tribes in Andaman and Nicobar Islands. Activists have for since a long time ago requested stringent punishments for poaching yet ground substances call for better execution and higher conviction rates without which poaching will keep on thriving. On the off chance that the criminal knows he will escape, they will be prepared to intense it out and the cycle proceeds. The issue with stringent punishments is that the legal needs more confirmation to give stricter discipline. The essential issue here is to expand conviction rates and actualize the arrangements of the act.

Incorporation of arrangements of CITES and Gram Sabha counsel is a positive advance. In the proposed amendment, a full part specifying every one of the arrangements of Refers to has been given a Schedule VII containing all the three reference sections of CITES. As arrangements of CITES continue changing due to visit audits of preservation status of the species secured, relating changes can't be attempted so as often as possible in the plans for WLPA. In such conditions, alteration of calendars of the Act itself can wind up troublesome

than upholding it. In the 1972 Act, CITES was given the space only for name sake and no actual implementation of the treaty's obligations were mentioned. ([Bajaj 1996; Bisht 2016](#))

· ***Miscellaneous provisions regarding possession, trophy, forest produce, etc.,***

The issues identified with research and protection action, including control is conceivable to a great extent for the planned creatures as it were. In the arrangements for statement of ownership/responsibility for booked species, arrangements are confounding. Along these lines, while exchange of responsibility for I creatures by legacy is conceivable, responsibility for posterity of the hostage creatures isn't characterized. Exchange of peacock quills is exempted from directions yet being a result of a calendar I creature, prerequisite of statement of ownership possession isn't exempted, while in the meantime, nightfall arrangement for presentation precludes ownership without possession declaration. Vast number of trophies are transported in by numerous Indian residents after chasing in a few nations with lawfully acquired amusement licenses. The same were not given importance nor implemented under the 1972 Act.

#### **CONCLUSION AND SUGGESTIONS**

The statutory system on wildlife protection is represented by the Wild Life Protection Act. It has been seen that it is the distinction in the essential clashes. The fact that the definitions under the Act, which has brought about a few clashes. The fact that the meaning of 'wildlife' incorporates its natural surroundings, or 'wild creature' additionally incorporates any creature indicated in the plans wherever discovered 'chasing' incorporates each endeavor to do as such, and what are 'determined plants', 'vermins' or who are the nodal experts to uphold the Natural life Act is as yet misty to numerous personalities including the wildlife administrators. What constitutes an 'asylum' or 'national stop', what are the rules for 'settlement of rights' inside an ensured region and how different laws, for example, the Outside Trade act or the Panchayat Extension Act impact wildlife zones isn't clear to numerous individuals who deal with these territories. The indictment of hoodlums and insufficiency of the law itself is managed in depth under the detail in the section. The bill of 2013 indeed promotes the objects of act and fulfills all the flaws caused by the act, by concentrating more on management and acquiring mechanisms of closed areas and converting them to national parks/ sanctuaries, and by increasing punishment amount and term.

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[1] Wildlife Protection Act, 1972

[2] Ajya B Manjundar, *Environmet and Wildlife Laws in India* (Lexis Nexis, 2013) 9

- [3] S. 4(1)(a), Wildlife Protection Act, 1972
- [4] *ibid*
- [5] AIR 1998 Guj 141, (1999) 1 GLR 700
- [6] 1997(2) SCR 728
- [7] Wildlife Protection Act, 1972
- [8] *ibid*
- [9] 253<sup>rd</sup> Report, THE WILD LIFE (PROTECTION) AMENDMENT BILL, 2013
- [10] Chapter VB, THE WILD LIFE (PROTECTION) AMENDMENT BILL, 2013
- [11] *ibid*
- [12] W.P. (PIL) No. 1615 of 2013
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- [14] Chapter VB, THE WILD LIFE (PROTECTION) AMENDMENT BILL, 2013
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