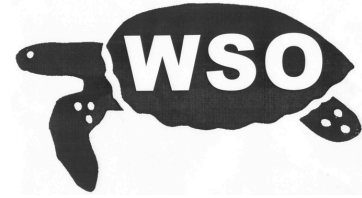




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6 September 2013

All members of the Parliamentary Standing Committee on
Science and Technology, Environment and Forests

Dear Sirs,

Sub: Comments on the Wild Life (Protection) Amendment Bill, 2013

The undersigned persons and organizations have each been active in the field of wildlife conservation in India for more than two decades. The Wildlife Protection Society of India (WPSI), which was established in 1994, is a member of the *State Boards of Wildlife* of *Madhya Pradesh, Chhattisgarh* and *Maharashtra* (through its Executive Director), a member of the *International Union for the Conservation of Nature (IUCN)*, the *Global Tiger Forum* and the *Species Survival Network*, and a former Member of the *National Board for Wildlife (2007-2010)*. The Wildlife Society of Orissa (WSO), which was also established in 1994, is a member of the *National Board for Wildlife (2007 to present)*. Aaranyak is a path breaking NGO in North East India that was established in 1989. It is a member of the *National Board for Wildlife (2007 to present)* and the *International Union for the Conservation of Nature (IUCN)*, and is recognized by SIRO under the Ministry of Science and Technology.

We would like to bring to your attention certain serious implications of the provisions of the Wild Life Protection Amendment Bill, 2013, as it has been introduced in the Rajya Sabha (The **Bill**).

Overall, the Bill may be regarded as a progressive legislation with positive implications for the law governing wildlife. However, there are a few glaring issues in the Bill which have serious implications for the enforceability of the Act and for human beings, which need to be highlighted to the Parliament and modified:

1) Amendment of the definition of 'wild animal'

Currently, the provisions of the Wild Life Protection Act, 1972 (the **Act**) pertaining to hunting, trade, and possession (Chapters III, V, and V-A) offer protection only to the animals listed in Schedules I to V of the Act. Accordingly, the term 'wild animal' is defined as "any animal specified in Schedules I to IV **and** found wild in nature". Section 2(j) of the Bill proposes to amend this definition so that a wild animal will mean "any animal specified in Schedules I to IV **or** found wild in nature". The term 'animal' is defined very broadly by Section 2(1) of the Act to include "mammals, birds, reptiles, amphibians, **fish**, other chordates and invertebrates and also their young and eggs"

If the definition of wild animal is changed as proposed, any animal found wild in nature will be considered as a 'wild animal' under the Act. Thus all fish (outside of those bred and kept in captivity in fish farms) will be considered as wild animals and will come under the purview of certain provisions in Chapter V of the Act. **Accordingly, as per Section 44 of the Act, no person will be allowed to sell fish, or cook it and serve it unless he has a license from the Chief Wild Life Warden of the relevant state, and as per Section 49, no person will be allowed to purchase fish unless it is from a dealer authorized under Section 44.**

This will have a major impact on the livelihood of millions of people involved in fisheries. The Act is a criminal legislation and for it to be strictly enforceable, it is desirable that the crimes it provides for are clear and precise to all persons. Diluting the definition of wild animal as such will take away from the clarity and precision of the Act, and hence affect its enforceability.

Surely, this cannot be the intention of the Government. **There is no good reason to amend the definition of 'wild animal' and it is advisable if this particular provision is dropped from the Bill.**

2) New Provision on Animal Traps

In the earlier drafts of this Bill, the proposed new Section 9-A (which prohibits the manufacture, sale, and possession of animal traps) was meant to apply only to leg hold traps (steel traps with jaws). This is reflected in the earlier draft put up for comment on the MoEF website at http://envfor.nic.in/sites/default/files/final-draft-bill_0.pdf. Now it has been broadened to mean any device that is designed to restrain or capture an animal. Many animal traps are very hard to define accurately. A snare, for example, is only a length of wire that is looped and tied in a particular way. To criminalize the possession of such items will be problematic. For example, it could lead to abuse of powers since any person with a clutch wire in his house could be arrested for having committed an offence.

Another thing to be kept in mind is that certain traps, such as rat traps, are necessary to catch vermin. There is an exception made in the proviso to the proposed Section 9-A which says that the Chief Wildlife Warden may permit the use of traps (except leg-hold traps) to safeguard agricultural crops and property of farmers. So henceforth, any traps for vermin will need to be produced, kept, sold, etc., with the permission of the Chief Wild Life Warden. This does not seem to be a suitable enough exception for pest control. **It is therefore desirable that Section 9-A is restricted to leg hold traps only.**

3) Punishment for general offences

Currently, the punishment for a general offence (such as the violation of a research permit) under the Act is imprisonment for a term which may extend to three years **or** a

fine which may extend to 25,000 Rs., or both. The new provision Section 51A(1) of the Bill has changed this to imprisonment which may extend to three years **and also** with a fine which may extend to 25,000 Rs. This will mean that an imprisonment term will be mandatory for even minor, general offences under the Act. It will also mean that compounding under Section 54 will not be allowed for such offences.

This appears to be an error, as it will remove any scope for leniency from Judges or Forest Officers when dealing with minor offences under the Act, and more importantly, the provision may deter scientists and researchers from undertaking work in this field. **It is recommended that Section 51A(1) is modified so that it provides for a punishment of imprisonment which may extend to three years or fine which may extend to 25,000 Rs.**

4) Amendment of the definition of Zoo

Currently, Section 2(39) of the Act defines the term zoo to include circuses. This is so that they come under the regulation and purview of the Central Zoo Authority in case they keep any species protected under Schedules I-IV of the Act.

Section 2(k) of the Bill proposes to delete the word circus from the definition of zoos, and replace it with “conservation and breeding centres”. This will remove circuses from the purview, regulation, and standards of the Central Zoo Authority. It is submitted that this is a backward step for welfare of captive animals and without any reason. **It is recommended that the word circus is retained in the definition of zoos and the words “conservation and breeding centres” are added after it.**

5) Certain Typographical / Non-substantial Recommendations

It is recommended that the words “and sub-section (1) of Section 51A.” are added at the end of sub-section (1) of the new proposed Section 51 in the Bill, i.e., after the words “specified under sub-sections (2) to (7)”. This is because sub-section (1) of Section 51A also prescribes penalties and needs to be mentioned here.

In the proposed sub-section (5) to be added in Section 61 of the Act, it is recommended that the words “Nothing contained in this Chapter” are changed to “Nothing contained in Chapter VB”. This is an incorrect reference as it stands because the chapter that is actually being referred to is Chapter VB dealing with CITES and exotic species. This provision has been moved from Chapter VB to Section 61 (which falls under Chapter VII (*Miscellaneous*)) from an earlier draft of the Bill without making the correction as required.

We hope that our comments are considered favorably and that the necessary changes can be made to the Amendment Bill. We would also like to express our willingness to send representatives from our organizations for oral evidence before the committee should this be required.

Yours sincerely,



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