

# LEGALFOXES LAW TIMES

## GREEN FURY- AN ASSASSINATION OF FAUNA

BY Manasvi Shukla and Mandeep Pamaar

### ABSTRACT

Till now we were fighting against the human trafficking, but now animal trafficking has become major issue to be dealt with. That is where the 'fauna,' which means where the life of animals are considered as a whole. The basic thing trying to be pointed out on their assassination is "**what is man without the beasts**"? The answer for the question is beyond imagination that is the reason their killings are specifically termed as assassination which means to kill an important life. Trafficking of wildlife is increasingly recognized as both a specialized area of organized crime and dangerous for flora also. It is worth \$19 billion standing as the 4<sup>th</sup> largest illicitly traded goods in the world. This black market not only ended up in economic loss but also stood doubled since the year 2007 it also included the murders of many park rangers. This kind of trade includes mainly poaching where the parts of animals are sold after killing them brutally. World Wildlife Crime Report takes stock of the current situation of wildlife crime with an emphasis on illegal trafficking in particular protected species of fauna and flora, and offers a comprehensive overview of the scope and scale of the problem at global level. Poaching and illicit wildlife trafficking through criminal networks represent an emerging challenge to peace and security, rule of law, and economic development of affected countries. These issues were dealt in UN General Assembly and wildlife and hence a committee was formed as International Consortium on Combating Wildlife Crime. A surge in poaching is now ravaging populations of iconic animals such as rhinos and elephants -for example, poaching of rhinos in South Africa increased from 13 in 2007 to over 1,200 in 2014, number of rhinos in Ngulia rhino sanctuary came down to 650 from 20,000 within a timespan starting from 1970 ending in 1986. Out of these statistics it was estimated that for every 11hr 1 rhino is out of the world. Is this what we are doing for protecting the wildlife? The further parts of this article is going to deal with the international

crisis of these wildlife offences, the violating cases and smuggling, its punishments in India as per the wildlife protection act 1972<sup>1</sup>. Further provisions regarding the protection of these innocent beasts and awareness to everyone is the next initiative adopted by this article.

*KEY WORDS- Wildlife crimes, poaching, animal trafficking, smuggling, Wildlife Protection Act*

## **INTRODUCTION**

Nature is something we have brought from our preceded generation and we owe its return to our succeeding generations. What is man without the beasts? This question was being tried to answer ever since a few centuries. The reasons behind are the generations have changed even the mind-sets of people also. Once upon a time the land, the air, all the greenery was sacred to man and so were also the flora and fauna. That was the time of Chief Seattle<sup>2</sup>during 1854. We question the only social animal on earth, commonly known as man based on his speech delivered shortly after Chief Seattle's lands were taken off by the then American government. It has been high time where mother earth was considered as a real mother to the mankind.

The freshness of air, the sparkle of water, the sounds or crisping of all the fauna are owned by none. How can they be sold? This question of Chief Seattle really deserves an answer in the today's generation.

Wildlife crimes today are not just offences it is an industry worth billions of dollars. It is earning 23 billion dollars per year. Trafficking on natural life has seen a precarious ascent in the course of the most recent decade. Now one of such major crimes is that of wildlife. The worldwide reports, progressively sorted out types of violence against species and environments these are stressing all the preservative associations of fauna profoundly. As indicated by WWF, in over 50 years of protection, we have never observed untamed life trafficking on wildlife in such a scale. Trafficking on wildlife is presently the most critical danger to three of the world's best-cherished species namely elephants, rhinos and tigers.

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<sup>1</sup>Hemant More,Objectives and Features Of Wildlife Protection Act,1972, The Fact Factor , (July 4, 2019),[https://thefactfactor.com/facts/law/civil\\_law/environmental\\_laws/wild-life-protection-act/1454/](https://thefactfactor.com/facts/law/civil_law/environmental_laws/wild-life-protection-act/1454/)

<sup>2</sup> "Chief Seattle's unanswered challenge" by John M Rich

Apart from these species there are also certain other animals, on an endangered state. They are as follows:

### SUNDA PANGOLIN

Sunda Pangolin is commonly known as Cekal or Armadillo. Pangolin is the scientific name of its species. The other names of this are Malayan and Javan Pangolin. Its home is usually in the rainforests of Southeast Asia. Its residence is in the Lesser Sunda Islands fetches its zoological name as Sunda Pangolin. The other places where it can be found are in Singapore, Malaysia, Vietnam, Brunei, Cambodia, Java, Sumatra and Borneo.

The armoured scales on its body protect it from all the predators, all except the only social animal, man. They are being killed and served as an exotic dish. This business is never licensed unlike the other diary meat trades. The scales of Armadillo are used in some of the medicines after it is killed.

### SLOW LORIS

This is one of the species of the nocturnal family zoologically known as the nocturnal Strepsirrhini primates. They are pure dark habitats. Its zoological name is Nycticibus. Their teeth are brutally plucked out to sell them as pets. This affects their peace of living.

### ILLEGAL FISH BOMBING

This is the main reason why aquatic wildlife has become meagre in number. Fish bombing<sup>3</sup> kills all the animals at the spot wherever spotted. Wherever this was done it ended up in killing fish, plankton, whales, sharks and also dolphins. This has also affected the people who were merely depended on coral reef as the source of their livelihood. The UN environment has set up a coral relief unit to get rid of these illegal fish bombing. The head of this body, Mr Jerker Tamelander specified after an examination that these bombing can also occur prematurely ending up in the death of the person trying it also. These bombings also kill the biodiversity and ecosystems around the water bodies. As a result, 6 out of 7 species of sea turtles are now endangered 90

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<sup>3</sup>Stopping fish Bombing, UN Environment Programme, <https://www.unenvironment.org/news-and-stories/story/stopping-fish-bombing>

million sharks are killed every year. The state government of Sabah has registered a voluntary commitment as a part of a Community of Ocean Action known as COA soon after the United Nations oceans conference was held in 2017. After this initiative was taken many hands of politicians, engineers, scientists, media professionals, conservationists and many other common people have also shown interest to be a part of this operation. This increased the enforcement by maximising the required reaches and minimising the costs. It provided all the required high quality data to allow people in marine protected areas affected by blast fishing to access the issues and ways to solve them. The next step undertaken was, there were discussions with the USA government for the development of law enforcement capacity which in order led to identify illegal fish bombing by combining special data.

### **THE US DEPARTMENT OF STATE BUREAU OF INTERNATIONAL NARCOTICS AND LAW (INL)**

Wildlife trafficking is not only a major issue for the survival of fauna but also a threat on the part of security. This is because it is fetching billions of dollars to the offenders since the products obtained from killing wildlife fauna end up in economic loss to the concerned Government resulting in loss of taxes. The point of corruption also plays a major role in this. The state department's bureau of international narcotics and law enforcement affairs takes the initiative to the wildlife trafficking across the globe this is also known as the INL. This has become an internal issue because this kind of trafficking has gradually developed up to a transnational offence.

This body has started becoming stricter after it was investigated that the demand for these smuggled goods obtained from wildlife trafficking has raised the level of poaching by a few professional transnational criminals for the killing of animals, be it a rhino for horns or an elephant for tusks last but not the least tigers for skin. As mentioned corruption also plays a major role apart from all the other kinds of abetments. So after this was figured out the basic initiative that was undertaken to make sure that there was a dog squad both at the entry and exit of every port which could bolster the search of any person who would be carrying such illegal products. The next thing set up for all the further investigation was to train the officers specially for carrying out these operations with all the required equipment. An another important thing to be noted is the INL also trains lawyers and judges to ensure the proper prosecution of the

offenders of wildlife crimes. This also acts as a strengthening body to make the concerned laws in all the nations stricter for the same purpose. It can be drawn out that by this mission promotion of cooperation of law enforcement can also be done.

### **UNITED STATES FISH AND WILDLIFE SERVICE (1988)**

The next role played for solving a crime is the forensic team.

As mentioned by Dr Ken Goddard, founder of the United States fish and wildlife service<sup>4</sup>, Oregon, Ashland. The procedure is observed as whenever there is evidence gathered in any crime scene it can be carcasses or a skeleton of any fauna it is sent to this forensic laboratory making it the first stage of the investigation. This lab is the only full service lab for all the wildlife trafficking going on across the globe. The team in this laboratory consists of firstly a veterinary pathologist whose job is concerned with the autopsy of all the animals figuring out what the reason of death is. For example, let us consider a deceased bald eagle, so they need to find if there was a crime involved in its death for the same purpose CT scanning is done and photography is the next role played to identify an unknown source with an another known one by cross-checking with the tissues or bones in case of an unidentified body of a fauna. This lab holds a record for maintaining 35000 specimens as mentioned by Dr Johnnie French. These specimens are either donated or seized in customs. These collections are the main source to identify the happened crime. When observed deeper unless the meat is removed off the bone it cannot be identified or used for the identification of any unidentified bone. They adopt the easy way to get the flesh separated from the bone by dropping it in a beetle tank. Then another major role playing team gets on to the arena, which is the genetic team this is where the proper identification can be done unlike the other teams of the lab. This laboratory is noted to have 40000 individual tissue samples for identifying different species. In case of a bird the identification is completed by an ornithologist.

### **LIFE OF RHINOS IN ZULULAND**

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<sup>4</sup>United states fish and wildlife service 1988, Ken Goddard

<https://goo.gl/vR6AcB>

White rhinos are one of the types of rhinos in South Africa. After the poaching started to have drastic effect the government has undertaken certain steps to prevent poaching. A toxin made of finger nails is mixed up with the natural dye in the horn of the rhino. This is really a difficult task as the rhino has to be caught first, tied properly with the help of a lot of man power and this operation has to be completed maximum within a time period of twenty minutes, making sure that the confined rhino is not affected. This emits a smell from the horn and hence this makes the horn unfit for ornamental and medicinal purposes helping to prevent poaching as a result. Vietnam has also adopted this kind of treatment. The other steps are rhinos are tied up by park rangers and are transferred in the air by choppers to places where they can be conserved. Rhinos are dehorned by the government of Zululand. They are being sedated and dehorned after the statistics turned out have 3 rhinos killed a day. Zululand is considered as a place especially for southern white rhinos. This ever started in 1967 launching a mission named 'to catch a rhino'<sup>5</sup> after the colonial wars ended up the population of rhinos just in hundreds. This point could show that it's high time all others did stick to one such mission. Their aim in the mission was to catch a rhino, sedate it and then transfer it to a private park where they can be conserved this could also provide rhinos a life with liberty unlike in that of a zoological park. Prince Mongosuthu Buthelezi, a veteran Zulu politician played a vital role in this mission.

Similarly, in Tsavo National Park which is the home of Ngulian Rhinos under threat. Kenya Wildlife Service describes the condition of the National park as a war and they are losing it as several rhinos and elephants were killed by poachers. It was mentioned that a rhino is being killed by a poacher every 11 hours. This wildlife sanctuary coincides with the increased involvement of sophisticated organized criminals and terrorist organizations. In recent years, wildlife has become the fourth largest illicitly traded good in the world, representing a \$19 billion industry. Transnational criminals and terrorist organizations, such as the Lord's Resistance Army and Al Shabab, make hundreds of thousands of dollars every month by partaking, directly or indirectly, in the killing and sale of animal parts.<sup>6</sup> Buying guns and bombs, paying their members and planning and executing terrorist attacks are the main motives involved

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<sup>5</sup> Rhinos: killing and corruption,

A documentary by the British Broadcasting Corporation.

<sup>6</sup>Johan Bergenas, [Killing Animals Buying Arms Setting the Stage for Collaborative Solutions To Poaching + Wildlife Crime](#), 17-04-2020 07:37 UTC

in poaching. The other reasons behind increased poaching are popular consumptions that are basically the traditional medicinal products, handicrafts and consumer goods.

### **GENETIC EFFECT OF POACHING ON AFRICAN ANIMALS**

Elephants are not only known to be the biggest land species ever after Mammoths got extinct. They also hold a record for being one of the most iconic creatures on this planet. After the extinction of Mammoths, elephants are the only surviving members of their order. Elephants are also considered to be intelligent and social beings like how exactly a man is, a notable example for the same is the behaviour of a trained elephant at a circus that can play and some are also specially trained to paint also. Apart from this the natural features noted to be are the calves<sup>7</sup> of elephants sucking their trunks just like a young human infant does. They are also known for obeying the orders of the guide of their herd called the matriarch, the other skills are taught by the older female elephant's vast experience in her long lasting life.

Now what has changed the life of these beasts? Is this what this innocent creature's evolution right from 5.3 million years ago fetch them? The basic story behind is, long ago in the evergreen forests of Africa there lived these kind of elephants with the biological name as Miocene, Pliocene 2.6 million years ago, Pleistocene 11,700 years ago and from then till date the current elephants we have called Holocene. Ever since the time of elephant's first ancestor it is now that the man has disturbed their peaceful life. When the first estimation of the elephant population was done in the 1500s South Africa had 26 million elephants<sup>8</sup> throughout its continent where the number today is lesser than 5 lakhs. As mentioned by Dr Tammie Matson who is a noted zoologist, author and the managing director of Matson and Ridley Safaris, elephants play a major role acting as keystone species. Reasons behind this are elephants usually dig up water from dry river bodies helping the other animals also to slake that are not physically strong to do the same. They also knock trees down, pick barks out and hence play an important role in the ecosystem. After poaching of these beasts started, the African government in the 1989 has taken an initiative with an operation named 'save the elephant' this was for the banning of ivory trade on African elephants which had gone up to an international level by then. This decree of agreement was

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<sup>7</sup>Calves of elephants

<https://www.elephantvoices.org/>

<sup>8</sup>500 Elephants an Extraordinary Journey, <https://500elephants.org/>

signed by the then president, Omar Bongo. But after a quiet time later it again started in 2003, their tusks are being removed and then the product is used in artwork, ornaments, jewellery and also as the keys of piano. Ivory's worth is no less than that of diamonds. One kilogram of ivory was worth \$11000 prior to the ban. The teeth of elephants cannot be removed off since one third of the tooth lies inside the skull of it which is composed of tissues, blood vessels and nerves together in a pulpy cavity. This is not the case with rhinos making an advantage to the poachers to straight away remove their horns off. But elephants started having a genetic effect of being born tusk less. As mentioned by Dr Joyce H. Poole, an ethologist, conservationist, co- founder and scientific director of Elephant voices, being born tusk less is a natural trait particularly more in female elephants than that of the males. Elephant's family holds a feature of being born with tusks but this poaching has led the elephants to be born tuskless with the gender ratio of 2:6. It can be biologically doubted that how an acquired character be transferred to an offspring? Just like if a mother has tattoo on her hand and she gives birth to a baby that baby is not born with a tattoo. The reason behind elephants being born with no tusks is nowadays elephants are being subjected to anaesthesia and then the tusks are being removed ending up with a disturbance internally and hence giving birth to an offspring with no tusks. The places proving this point in South Africa are Maputo, lower Zambezi, South Kafue, north Kafue, Vwaza, South Luangwa and north Luangwa. Other places like Kaudom, Ngami land, Moreno, Chobe, Amboseli, Etosha and Kruger had a controlled population of elephants. The Mozambican civil war during 1977 to 1992 was also the time where heavy poaching happened. The best example for this is the Gorongosa national park<sup>9</sup> located in Sofala, Mozambique. Half of the female elephants that survived after this period had no tusks and this is the reason why the next 33% of their offspring were born tuskless. Tuskless elephants are more less likely to be killed by poachers but the ones with tusks are not. Scientists have discovered that these elephants had lowered their size as compared to that of the ones a century ago. Usually male elephants with tusks weight 7 times more than that of a female one of the same age. This was also a reason why poachers focus more on male elephants and then are older females focused on since the tusks of elephants also keep growing because of the fact that elephants are polyphyodont which means their teeth keep growing throughout their lifetime unlike humans who have limited growth of teeth. Other genetic effect of poaching on elephants is basically on the point that their tusks are evolved for the sake

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<sup>9</sup>Conservational parks in Africa, <https://www.african-parks.org/>

of extreme forages, protection of their youngsters from predators etc. All this can indicate that the basic genetic<sup>10</sup> survival is also affected because of poaching.

### **COMMUNITY ENGAGEMENT**

The Government of various countries preferred community engagement in reducing wildlife crime which focuses on strengthening law enforcement. Basic reasons behind the increment in wildlife crimes like poaching and illegal wildlife trade are due to poverty and lack of alternative income generating opportunities. According to a project on Community Engagement in by IWT Challenge Fund Project 'Building capacity for pro-poor responses to wildlife crime in Uganda summarised that if we address certain issues like mitigating human-wildlife conflict, supporting community- based wildlife scouts and establishing 'wildlife-friendly' enterprises as a source of income it can lead to greatest reductions.<sup>11</sup> International Institute for Environment and Development also believes that efforts to tackle wildlife crimes are only going to be effective in a long termed way, if they involve the local people who live alongside wildlife.<sup>12</sup>Poaching and the related illicit trade in wildlife (IWT) are destroying populations of iconic wildlife species such as rhinos and elephants, as well as a host of lesser-known species such as pangolins, some birds, rodents, primates, medicinal plants and timber. Wildlife trade is a big business and it has always been an illicit factor, but in the past few years it has gained extraordinary high-level global attention as a result of the massive rise in poaching of African elephants and rhinos, the fear about the long-term survival of these and the other species that have been endangered has increased. Therefore, it is important that wildlife crime is handled as a priority concern for both the conservation community and the development community. The way wildlife crime is tackled, however may also have consequences for the local populations that live alongside wildlife. Every now and then wildlife concerns steal the spotlight from other disasters and there are a few brief moments in the limelight to make the case that protecting biodiversity is not a privilege but key to ensure the survival of the inhabitants of the earth – both human and animal.

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<sup>10</sup>genetic statistics in more detail

<http://www.vox.com>

<sup>11</sup>International Institute for Environment and Development (IIED), Park action plans: increasing community engagement in tackling wildlife crime, 17-04-2020 07:37 UTC, <https://www.jstor.org/stable/resrep16741>

<sup>12</sup>International Institute for Environment and Development (IIED), Wildlife crime and local communities

## **SINERIO IN INDIA AND WILDLIFE PROTECTION ACT, 1972**

It is stated in the Article 48-A<sup>13</sup> of the Indian Constitution stating that the state shall try to protect and improve the environment and safeguard the forest and wildlife of the country. Therefore, the state advises to formulate and develop a mechanism for the protection of Wildlife. It has imposed a fundamental duty on every citizen under Article 51A to protect and improve the environment and have a compassion for living creatures. The Wildlife Protection Act,1972 is an Act of the Parliament of India enacted for protection of plants and animal species. Wildlife includes birds, plants, wild animals etc. With the developing world and its increment in technology, it is causing damage to the forests and wildlife. The Wildlife Protection Act,1972 provides for protection to a listed species of flora and fauna and establishes a protected area for their growth. This act mainly focuses on the hunting of animals excepting the ones with the permission of an authorized officer when an animal has become dangerous. It also imposes punishments for violation of principles and hunting of wild animals, birds etc. It also provides security to animals that are not in danger of becoming extinct. It gives sweeping power to law enforcement authorities to punish anybody guilty under the Act.

The Sahyadri tiger reserve in Kolhapur has faced a new issue regarding the infrastructure it is basically about the facilities regarding the stay and food for the visitors basically that are eco-tourists. There was an affidavit filed and forwarded to the central empowered committee regarding the same. The experts while finalising it have declared that in order to prevent wildlife trafficking there is an immediate necessity to provide awareness regarding the same. That can be done by not only making aware the common people but also the eco-tourists who visit. A veteran environmentalist Jay Samant has stated that eco-tourism is something that people are basically unaware of; it has to be basically taught to everyone to understand the main scheme behind it. The wildlife warden of the place RohanBhate has suggested new rules that eco-tourists must be accompanied by localities that could provide them with all dos and don'ts. This decision was implemented immediately by training people particularly for this purpose. The part of training includes about poaching of animals and their violating principles of acts like the wildlife protection act etc.

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<sup>13</sup>Inserted by the 42<sup>nd</sup> constitutional amendment act under section 10, year 1977

Ever since the wildlife crimes in India began, there was only one notable person who almost played the role of Robin Hood. And his crimes were almost equal to that of all the crime recorded in the world in the black market of wildlife crimes. His name is Veerappan. He can notably be called as the founder of elephant poaching in India. He is noted to kill 2000 elephants in India. And there were almost 1800 officers worked to catch hold of him out of which he brutally murdered almost 1100 of them. They also included the ones who tried to stop him from smuggling sandal wood. The other officers were the forest department employees, and the ones who were officially authorised to catch hold of him. The Indian government has announced a reward of 5 crores to anyone who fetched him to the cops alive or dead.

### **CONCLUSION**

From this article we would like to draw out the speech of ChiefSeattle and suggest having that time back with the same mind in people where the flora and fauna are treated back with the same pleasure and as a part of not only daily life but also kit and kin which literally mean to treat as a part of the family and that family is considered as a whole nation. Awareness programmes need to increase to everyone and the only question which deserves an answer but should never be answered is what is man without the beasts? This is because when the mankind finds an answer for this question it is nothing but an alternative way of living without flora and fauna. Lack of literacy is one of the major issues for the wildlife trafficking to be more in scale. When one is educated at a small town it is the empowerment of that place but when a whole town is educated it is the whole country that is empowered and developed.

As poaching and untamed life trafficking are being perceived as an incorporated test spreading over the preservation, improvement and security continuum, the reaction ought to be similarly logical, looking for arrangements over these storehouses. New associations can and ought to develop, and assets and expertise can be utilized inside and between governments as protection and country security divisions, ecological services, help associations, law implementation offices and different associations find strange shared view. This doesn't mean, for instance, that the World Bank needs to renege on its centre pledge to decreasing worldwide destitution. Nor does it imply that the US Defence Department should occupy critical assets in a period of sequestration to issues that have generally been outside the limits of the Pentagon's crucial. Better incorporated reactions should make preparations for strategic, implying that the preservation network has little to pick up from essentially adding security to its portfolio, similarly that the security network has little to pick up from including a protection portfolio. Or maybe, keen coordination ought to be the core value, and there is no motivation behind why limit building accomplices can't be comprised of a consortium of the preservation, advancement and security networks. It ought not make any difference in the event that it is the United Nations Counter Terrorism Executive Directorate or the World Wildlife Fund that is organizing any given task; each brings a lot of abilities that supplement the more extensive strategic. Mechanical limit working at national parks and security preparing for park officers are significant segments of a more extensive answer for poaching and untamed life wrongdoing. As barrier spending plans are being cut and cultural security limit building — including specialized gear that ensures land, ocean and flying fringes, ports, streets, vitality offices and other monetary frameworks — is on the ascent, the private high-innovation division is anxious to enter new markets rising and creating portions of the world. By taking part in pilot extends that are versatile and replicable, similar to the task at Ngulia, private innovation organizations can enter such markets. Some portion of the mechanical answer for natural life security incorporates sensors, radars, unmanned ethereal vehicles, order and control frameworks, and security innovation instruction and preparing for leave security authorities. This sort of innovation is actually what is expected to support outskirts, port and framework security and give high-tech answers for battling wrongdoing all through the developing monetary districts. The market for this sort of limit working throughout the following barely any decades is upwards of \$60 trillion. Through this work in East Africa, and by speaking to industry's edified personal matters, we are trying to exhibit that the customary security and

protection division can and should assume a more prominent job in more extensive cultural limit assembling that intends to fabricate a structure for advancement, especially in less fortunate pieces of the world.

These are the key territories to consider while pushing a comprehensive reaction ahead against poaching and untamed life trafficking. There are a lot of progressively new and imaginative thoughts that can be distinguished insofar as the protection, advancement and security networks have a stage to share their encounters. By the day's end, an effective way to deal with poaching and untamed life trafficking follows a similar rationale as the reaction to every single illegal system and transnational trafficking challenges: creating assorted systems that assemble all-encompassing strategy structures that look to ensure the products of globalization against its inclinations. Our pilot venture at Ngulia is a piece of that story.