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Navigating the Legal Landscape of Ethical Animal Tourism in India

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ABSTRACT

Animal tourism plays a pivotal role in the global travel industry, driving economic growth and supporting wildlife conservation. However, it also raises significant ethical and legal challenges, particularly concerning animal welfare, conservation, and the sustainable management of natural resources. In India, renowned for its rich biodiversity and cultural heritage, animal tourism is a key attraction. Yet, the existing ethical and legal frameworks often fall short of addressing the complexities introduced by contemporary tourism practices. This article explores the legal and ethical frameworks governing animal tourism in India, advocating for a shift towards sustainable and humane practices. By drawing comparisons with countries such as the USA, Brazil, and several African nations, the article underscores the global nature of these challenges and explores potential solutions for a more responsible future in animal tourism.

Keywords: *animals, tourism, ethical aspect, legislations, judiciary.*

I. INTRODUCTION

Animal tourism traces its origins to Ancient Rome, where capturing and transporting live animals from distant regions was a way to showcase wealth and power. These animals were often used in live hunting spectacles for entertainment, many of which ended in their deaths. It is estimated that over 15,000 animals, including tigers, lions, and elephants, were killed in the Colosseum during such events. During this era, Romans also discovered that elephants could be trained to perform tricks, leading to their use in shows—a precursor to what would later become circuses.²

The fascination with exotic animals continued into the 20th century, particularly with African safari animals. "Big game" hunting, which involved pursuing the "Big Five" animals, gained popularity. Even U.S. President Theodore Roosevelt traveled to Africa for game hunting, with the animals collected during his expeditions later destined for the National Museum, now

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² BPSA Sanctuary: BPSA Sanctuary, *What Is Animal Tourism?*, <https://www.bpsanctuary.org/blog/what-is-animal-tourism/> (last visited Aug. 19, 2024).

known as the Smithsonian's Museum of Natural History³.

Animal tourism today includes various activities, such as visits to zoos, aquariums, sanctuaries, and orphanages, as well as interactions with wild animals, circuses, animal shows, the sale of exotic animals, and activities like capturing snapshots with animals (such as selfies with tigers) or trophy hunting.⁴ Generally, any form of tourism that emphasizes direct human interaction with animals is considered unethical. Conversely, wildlife tourism can also include ethical activities like going on safari to observe iconic animals, such as the African Elephant or Tigers in India. Visiting or volunteering at an Animal Rescue Center to help with cases of animal cruelty is another example of ethical animal tourism.

Wildlife is a critical component of biodiversity, which is essential for the health and well-being of our planet. We live in an interconnected ecological system where each organism—whether animal, plant, or fish—affects others. Disrupting the natural habitat of any organism can trigger a domino effect, leading to imbalances in the ecological system and threatening the life cycles of many species.

Wildlife conservation is a significant concern for international, regional, and local communities. Among the numerous threats to wildlife are diseases, climate change, and human actions such as poaching and illegal trafficking. According to the International Union for Conservation of Nature's Red List Index⁵:

- “Amphibians are experiencing their fastest decline in Latin America and the Caribbean, largely due to chytrid fungal infections.”
- Southeast Asia faces the highest extinction risks for birds and mammals, mainly due to the conversion of low land forests.
- Around 7,000 species of animals and plants have been identified in illegal trade, and the number of species receiving international protection is steadily increasing.

Effective policy measures and heightened public awareness, particularly among media professionals, are essential for safeguarding wildlife and biodiversity. It is important to involve print, audiovisual, and online media in promoting wildlife as a vital part of biodiversity and a

³ Everard: Theodore Roosevelt, *African Game Trails* (1910), <https://www.everard.com/book/356807567/African-Game-Trails> (last visited Aug. 19, 2024).

⁴ Directionally Challenged Traveler: Directionally Challenged Traveler, *What Is Animal Tourism?*, <https://directionallychallengedtraveler.com/what-is-animal-tourism/> (last visited Aug. 21, 2024).

⁵IUCN Red List: IUCN, *IUCN Red List of Threatened Species*, <https://iucn.org/resources/conservation-tool/iucn-red-list-threatened-species#:~:text=Governments%20use%20the%20Index%20to,tar%20for%20reducing%20biodiversity%20loss.&text=Species%20are%20classified%20into%20one,Data%20Deficient%20and%20Not%20Evaluated> (last visited Aug. 23, 2024)..

valuable resource for tourism development. Achieving this through accurate and thorough reporting is a primary objective. Enhancing the media's capacity to collaborate with governments and civil society will help establish a framework for action to improve wildlife and biodiversity protection.

Animal tourism is a significant aspect of the global travel industry, contributing to both economic growth and wildlife conservation. However, it also raises serious ethical and legal concerns, particularly regarding animal welfare, conservation efforts, and the sustainable use of natural resources. In India, a country known for its rich biodiversity and cultural heritage, animal tourism is a major attraction. Yet, the ethical and legal frameworks governing this sector are complex and often insufficient to address the challenges posed by modern tourism practices.

II. OVERVIEW OF ANIMAL TOURISM IN INDIA

India boasts an incredibly diverse range of geographical landscapes, each home to a rich array of wildlife. Wildlife tourism has been lauded as a means to secure sustainable economic benefits while supporting conservation efforts and benefiting local communities. The appeal of tourism that involves interactions with wild animals is gaining traction among governments, the tourism industry, and researchers alike. The range of experiences is diverse, encompassing activities such as scuba diving on coral reefs, going on jungle safaris in national parks, whale watching from boats or land, bird-watching either independently or with a commercial guide, spotting animals while trekking in national parks, staying at eco-resorts near wildlife habitats, visiting zoos or wildlife sanctuaries, engaging in big game fishing, and participating in trophy hunting. These and other tourism activities prominently feature wild animals as a central or significant aspect of the experience. India is home to a diverse array of wildlife, including iconic species such as tigers, elephants, and rhinoceroses. The country has around 566 Wildlife Sanctuaries and 104 National Parks packed with a variety of flora and fauna. These animals attract millions of tourists annually, contributing significantly to the country's economy. The wildlife tourism industry in India encompasses activities such as safaris, elephant rides, and wildlife sanctuaries. While these activities provide economic benefits and promote conservation awareness, they also raise concerns about the treatment and welfare of animals.

III. ETHICAL CONSIDERATIONS IN ANIMAL TOURISM

Wildlife tourism, a significant aspect of ecotourism, has been steadily expanding in India, with a compound annual growth rate (CAGR) of 15% in tourist visits up to 2020, as reported by government and media sources. This segment has emerged as a luxury experience, drawing tourists for various reasons. As urban areas increasingly become concrete jungles, there is a

growing collective fascination and appreciation for the natural world.

(A) Animal Welfare

One of the most pressing ethical concerns in animal tourism is the welfare of the animals involved. Activities such as elephant rides, tiger shows, and interactions with captive wildlife often entail practices that can be detrimental to the well-being of these animals. For example, elephants used in tourism are frequently subjected to rigorous and often cruel training methods, kept in inadequate living conditions, and overworked to meet the demands of tourists⁶. These practices not only inflict physical and psychological harm on the animals but also raise serious ethical questions about the morality of using animals for entertainment purposes. The welfare of these animals is often compromised in pursuit of profit, making it essential to critically evaluate and regulate such practices to ensure that they do not cause undue suffering⁷.

(B) Conservation vs. Exploitation

One of the most complex ethical dilemmas in animal tourism is the conflict between conservation efforts and the exploitation of animals. On one hand, wildlife tourism can serve as a significant source of revenue for conservation programs, providing much-needed financial resources to protect endangered species, preserve natural habitats, and support conservation initiatives. The influx of funds from tourism can enable the creation of protected areas, the implementation of anti-poaching measures, and the funding of research and education programs aimed at promoting wildlife conservation. However, the flip side of this equation is the risk that animals may be commodified⁸, treated not as sentient beings with intrinsic value, but as resources to be exploited for profit. When tourism operators prioritize financial gain over the welfare of the animals, conservation can become secondary, leading to practices that harm the very wildlife they purport to protect. For instance, activities like captive breeding programs intended for tourist interactions can lead to the unnatural confinement of animals, disrupting their natural behaviors and potentially leading to physical and psychological stress. In such cases, the line between conservation and exploitation becomes blurred, with the welfare of the animals often compromised.

⁶ Voiceless India: Voiceless India, *Animals in Tourism*, <https://voicelessindia.org/animals-in-tourism> (last visited Aug. 23, 2024).

⁷ HSI: Humane Society International, *Don't Buy Wild Tourist Attractions and Live Animals*, <https://www.hsi.org/news-resources/dont-buy-wild-tourist-attractions-and-live-animals/> (last visited Aug. 21, 2024).

⁸ Sanctuary Nature Foundation: Sanctuary Nature Foundation, *Beyond Boundaries: Reimagining Wildlife Tourism in India*, <https://www.sanctuarynaturefoundation.org/article/beyond-boundaries%3A-reimagining-wildlife-tourism-in-india#:~:text=Mass%20wildlife%20tourism%20has%20commodified,thousands%20of%20species%2C%20including%20humans> (last visited Aug. 21, 2024).

Striking the right balance between conservation and exploitation requires a careful and ethical approach to tourism management. This means ensuring that tourism activities are not only economically viable but also aligned with the principles of conservation⁹. Sustainable tourism practices must be at the forefront, emphasizing the protection of natural habitats, minimizing human interference in wildlife behavior, and avoiding any activities that may cause harm or distress to animals. The World Tourism Organization defines sustainable tourism as “tourism that takes full account of its current and future economic, social and environmental impacts, addressing the needs of visitors, the industry, the environment and host communities”¹⁰.

For example, eco-tourism initiatives that focus on responsible wildlife viewing, such as guided safaris that keep a respectful distance from animals¹¹ or wildlife sanctuaries that offer refuge to injured or endangered species, can provide meaningful conservation benefits without exploiting animals. These initiatives should also involve local communities in conservation efforts, ensuring that the economic benefits of tourism are shared equitably and that local populations are incentivized to protect wildlife.

Furthermore, transparency and accountability are key to maintaining the integrity of conservation efforts in tourism. Tour operators and conservation organizations must be transparent about how funds generated from tourism are used and ensure that a significant portion of the proceeds is reinvested into conservation projects. Additionally, tourists themselves must be educated about the ethical implications of their choices, encouraging them to support only those activities and organizations that genuinely contribute to the protection and preservation of wildlife. The challenge of balancing conservation with the risk of exploitation in animal tourism is multifaceted. It requires a commitment to ethical tourism practices that prioritize the long-term well-being of animals and their ecosystems. By adopting sustainable tourism models that respect both animal welfare and conservation goals, the industry can help ensure that wildlife tourism serves as a force for good, rather than a source of harm.

(C) Cultural Sensitivity and Indigenous Rights

Animal tourism is often deeply intertwined with the cultural practices and traditions of local communities. In India, for example, elephants hold profound cultural and religious significance,

⁹ GST Council: GST Council, *What Is Sustainable Tourism?*, <https://www.gstcouncil.org/what-is-sustainable-tourism/> (last visited Aug. 20, 2024)./

¹⁰ SDGs: United Nations, *Sustainable Tourism*, <https://sdgs.un.org/topics/sustainable-tourism> (last visited Aug. 20, 2024).

¹¹ PETA: People for the Ethical Treatment of Animals, *Five Companies Win First-Ever PETA Animal-Friendly African Safari Awards*, <https://www.peta.org/media/news-releases/five-companies-win-first-ever-peta-animal-friendly-african-safari-awards/> (last visited Aug. 19, 2024).

and their use in tourism is closely linked to traditional customs¹². Ethical considerations in animal tourism must, therefore, extend beyond animal welfare to encompass cultural sensitivity and the rights of indigenous communities. It is important to respect and preserve the cultural heritage of these communities while ensuring that the welfare of animals is not compromised. Balancing the preservation of cultural traditions with the need to protect animals from harm presents a complex ethical challenge that requires thoughtful and inclusive approaches. This includes engaging with local communities to develop tourism practices that honor their cultural values while upholding ethical standards for animal welfare.

IV. LEGAL FRAMEWORK GOVERNING ANIMAL TOURISM IN INDIA

India has a robust legal framework aimed at protecting wildlife and ensuring ethical practices in animal tourism. Key legislations include:

1. The Wildlife (Protection) Act, 1972

The Wildlife (Protection) Act, 1972¹³, is the primary legislation governing the protection of wildlife in India. It provides for the protection of wild animals, birds, and plants, and the regulation of hunting, trade, and tourism activities involving wildlife. The Act also establishes national parks, wildlife sanctuaries, and other protected areas, where tourism activities are regulated to ensure the protection of wildlife.

2. The Prevention of Cruelty to Animals Act, 1960

The Prevention of Cruelty to Animals Act, 1960¹⁴, addresses the welfare of animals and prohibits practices that cause unnecessary pain or suffering to animals. The Act is particularly relevant to animal tourism, as it provides a legal framework for addressing issues such as the mistreatment of animals used in tourism activities.

3. The Forest (Conservation) Act, 1980

The Forest (Conservation) Act, 1980¹⁵, regulates the diversion of forest land for non-forest purposes, including tourism. This Act plays a crucial role in ensuring that tourism activities do not lead to the degradation of forest ecosystems and that they are conducted in a sustainable

¹² Enroute Indian History: Enroute Indian History, *Why Elephants Are Seen as Symbol of India*, <https://enrouteindianhistory.com/why-elephants-are-seen-as-symbol-of-india/> (last visited Aug. 22, 2024).

¹³ India Code: *The Wildlife (Protection) Act, 1972* (Act No. 53 of 1972), <https://www.indiacode.nic.in/bitstream/123456789/1726/1/a1972-53.pdf>

¹⁴ DAHD: Department of Animal Husbandry and Dairying, *Prevention of Cruelty to Animals Act, 1960*, <https://dahd.nic.in/prevention-cruelty-animals-act-1960>

¹⁵ PRS India: PRS India, *Handbook of Forest Conservation Act, 1980 and Forest Conservation Rules, 2003*, https://prsindia.org/files/bills_acts/bills_parliament/2005/bill53_2007010153_Handbook_of_Forest_Conservation_Act_1980_and_Forest_Conservation_Rules_2003.pdf

manner.

4. The National Tiger Conservation Authority (NTCA) Guidelines

The NTCA¹⁶ has issued specific guidelines for tourism in tiger reserves, aimed at minimizing the impact of tourism on tiger habitats and ensuring the safety of both tourists and wildlife. These guidelines emphasize the need for responsible and sustainable tourism practices in tiger reserves.

V. ROLE OF INDIAN JUDICIARY IN ANIMAL TOURISM

The Indian judiciary has played a decisive role in shaping the legal framework governing animal tourism. Several landmark cases have set important precedents in ensuring the welfare of animals and promoting ethical tourism practices. Through landmark judgments and proactive interpretation of laws, the judiciary has strengthened the protection of animals in tourism-related activities, ensuring that their welfare is prioritized alongside economic interests. The judiciary's involvement has also highlighted the importance of balancing tourism development with animal rights, setting legal precedents that contribute to sustainable and humane tourism practices in India. In addition to these landmark rulings, the judiciary has played a vital role in advocating for the establishment of guidelines and regulations that govern animal tourism. Courts have urged the government to implement stricter rules and monitoring mechanisms to ensure that animal tourism activities do not compromise animal welfare¹⁷. For instance, in response to court directives, the Ministry of Environment, Forest, and Climate Change (MoEFCC)¹⁸ has periodically issued guidelines to regulate wildlife tourism, ensuring that it adheres to conservation and ethical principles.

In the landmark judgment of *Animal Welfare Board of India v. A. Nagaraja & Ors.*¹⁹ the Supreme Court of India banned the traditional practice of Jallikattu (bull-taming sport) in Tamil Nadu, citing the provisions of the Prevention of Cruelty to Animals Act, 1960. The Court emphasized that the welfare of animals is paramount and cannot be compromised for the sake of tradition or entertainment. The judgment emphasized that both the government and the Animal Welfare Board must safeguard the 'five freedoms' of animals. These freedoms include protection from hunger and thirst, ensuring animals are free from discomfort, pain, injury, and disease, shielding them from fear and distress, and allowing them to express normal behavior.

¹⁶ NTCA: National Tiger Conservation Authority, *Revised Guidelines for the Project Tiger Scheme*, https://ntca.gov.in/assets/uploads/guidelines/revised_guidelines_css_pt.pdf

¹⁷ World Animal Protection: World Animal Protection, *India*, <https://api.worldanimalprotection.org/country/india>

¹⁸ MoEF: Ministry of Environment, Forest and Climate Change, <https://moef.gov.in/>

¹⁹ (2014) 7 SCC 547.

However, the Tamil Nadu governor passed a new law that permitted the continuation of the jallikattu events in response to protests. This case is significant for animal tourism as it underscores the judiciary's commitment to upholding animal welfare standards in activities involving animals.

In, *Wildlife Rescue and Rehabilitation Centre v. Union of India & Ors.*²⁰ the Supreme Court of India directed the state governments to regulate the use of elephants in tourism activities and ensure their welfare. The Court mandated that elephants used in tourism must be registered with the Animal Welfare Board of India and must not be subjected to any form of cruelty. This judgment has had a profound impact on the regulation of elephant tourism in India, ensuring that the welfare of elephants is prioritized.

In its order dated 18/08/2015 in the case of *Wildlife Rescue and Rehabilitation Centre and Others v. Union of India and Others*, the Supreme Court of India addressed the issue of cruelty towards elephants in Kerala and the need to curb such practices. The Court directed the Chief Wildlife Warden to ensure that all captive elephants in Kerala are accounted for, and if any elephants are found without the necessary certification under Section 42 of the Wildlife Protection Act, 1972, or without a declaration under Section 40, appropriate action should be taken against the owners. This order highlighted the judiciary's proactive stance in ensuring that tourism practices involving animals adhere to ethical standards and legal provisions.

Another significant intervention by the Indian judiciary was in the case of *N.R. Nair v. Union of India*²¹, where the Supreme Court banned the training and exhibition of five species of animals, including lions and tigers, in circuses. This ruling had implications for the tourism industry, particularly in areas where animal performances are a popular attraction. The court's decision reinforced the need for tourism practices to align with animal welfare standards and discouraged the use of animals for entertainment purposes that lead to their suffering.

VI. INTERNATIONAL CONVENTIONS AND AGREEMENTS

India is an endorsing party to several international conventions and agreements that have a direct bearing on animal tourism. India's commitment to ethical animal tourism is reflected in its adherence to several key international conventions, which influence the country's legal framework and policies. One of the most significant agreements is the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)²². This

²⁰ (2016) 13 SCC 478 .

²¹ AIR 2001 SC 2337

²² CITES: CITES, *What Is CITES?*, <https://cites.org/eng/disc/what.php> (last visited Aug. 23, 2024).

international treaty aims to ensure that the international trade of wildlife, including animals used in tourism, does not jeopardize the survival of species. As a signatory to CITES, India implements the convention's provisions through its domestic laws, particularly the Wildlife (Protection) Act, 1972. This act regulates the trade and exploitation of endangered species, ensuring that animals involved in tourism activities are protected from illegal trade and overexploitation. CITES plays a crucial role in preventing the extinction of species that may otherwise be threatened by tourism-related demand, such as for animal performances, souvenirs, or wildlife encounters.

In addition to CITES, India is also a party to the Convention on Biological Diversity (CBD)²³, an international treaty focused on conserving the world's biological diversity. The CBD's objectives include promoting the sustainable use of biodiversity and ensuring that the benefits arising from the use of genetic resources are shared equitably. In India, the CBD is implemented through the Biological Diversity Act, 2002. This legislation supports the promotion of sustainable tourism practices that do not harm biodiversity and encourages the conservation of ecosystems and species. Through the CBD framework, India aims to balance tourism development with the protection of natural habitats, ensuring that tourism activities do not lead to habitat degradation or species loss. Sustainable tourism initiatives under the CBD include eco-tourism, wildlife safaris, and conservation-focused tourism, which help in preserving biodiversity while providing economic benefits to local communities.

Furthermore, India's stance on animal welfare is guided by the principles of the Universal Declaration on Animal Welfare (UDAW)²⁴. The UDAW is a global initiative that seeks to recognize the importance of animal welfare and promote the humane treatment of animals across the world. Although UDAW is not a legally binding treaty, it serves as a moral and ethical guideline for countries, including India, to follow in their animal welfare policies. India has expressed its support for the UDAW, and the declaration's principles are reflected in various domestic legislations aimed at protecting animals from cruelty and ensuring their well-being. For instance, the Prevention of Cruelty to Animals Act, 1960, embodies the spirit of UDAW by prohibiting cruel practices and promoting humane treatment of animals, including those used in tourism. The UDAW principles also influence India's efforts to educate and raise awareness about ethical animal tourism, encouraging both tourists and operators to adopt practices that prioritize the welfare of animals.

²³ CBD: Convention on Biological Diversity, <https://www.cbd.int/>

²⁴ World Animal Protection Report: World Animal Protection, *The Case for UDAW*, <https://www.worldanimalprotection.ca/siteassets/reports-pdfs/The-case-for-UDAW-2016-10/>

Collectively, these international conventions and declarations form a robust framework that shapes India's approach to animal tourism. They guide the country's efforts to protect endangered species, conserve biodiversity, and promote animal welfare within the tourism industry. By adhering to these global standards, India not only fulfills its international obligations but also reinforces its commitment to ethical and sustainable tourism practices. This integrated approach helps ensure that animal tourism in India respects the rights and welfare of animals while contributing to the conservation of the country's rich natural heritage.

VII. CHALLENGES AND RECOMMENDATIONS

Despite having a robust legal framework, India faces several challenges in ensuring ethical and sustainable practices in animal tourism. These challenges include:

(A) Enforcement of Laws

One of the primary challenges in India is the effective enforcement of existing laws and regulations. Despite the comprehensive legal framework, illegal and unethical tourism practices continue to persist, particularly in remote areas where oversight is limited. Strengthening enforcement mechanisms and ensuring that regulatory authorities have the necessary resources and training to monitor and regulate tourism activities is crucial.

(B) Public Awareness and Education

Raising public awareness about the ethical and legal aspects of animal tourism is essential for promoting responsible practices. Tourists must be educated about the impact of their actions on wildlife and encouraged to choose ethical tourism options. Additionally, tourism operators must be trained in best practices for animal welfare and sustainable tourism.

(C) Community Involvement

Involving local communities in tourism activities can help promote ethical and sustainable practices. Community-based tourism models, where local populations benefit from tourism activities, can incentivize the protection of wildlife and the adoption of humane practices. India should explore and promote community-based tourism initiatives that align with conservation goals and respect indigenous rights.

(D) International Collaboration

India can benefit from international collaboration and the sharing of best practices in animal tourism. By working with other countries and international organizations, India can strengthen its legal and ethical frameworks and adopt innovative solutions to the challenges posed by animal tourism.

VIII. CONCLUSION

Animal tourism in India is at a critical juncture, where the need for economic growth must be balanced with ethical considerations and the protection of wildlife. The legal and ethical frameworks governing animal tourism in India provide a strong foundation for promoting responsible practices, but challenges remain in enforcement, public awareness, and community involvement. By learning from the experiences of other countries and adopting a holistic approach that prioritizes animal welfare, conservation, and cultural sensitivity, India can ensure that its animal tourism industry contributes to sustainable development and the humane treatment of animals. To create a more ethical animal tourism industry in India, legal reforms are essential. Updating the existing legislations to include stricter penalties and clear guidelines for the ethical treatment of animals in tourism is a crucial step. Additionally, integrating animal welfare considerations into tourism policies at both state and national levels can help ensure that ethical practices are followed. Implementing certification systems for animal tourism operators can also ensure adherence to ethical standards while raising awareness among tourists about responsible animal interactions. Furthermore, increasing public awareness about the impact of their choices in animal tourism can drive demand for ethical practices, reducing the prevalence of harmful activities like elephant riding and wildlife petting. By prioritizing the welfare of animals, India can continue to attract tourists while setting a global example for humane tourism practices.
