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Legal Frameworks for Wildlife Protection, with a Special Focus on China and India

A vadvilág védelmének jogi keretei, különös tekintettel Kínára és Indiára

ABSTRACT

Since the beginning of the 20th century, the extinction or endangerment of wildlife species has been a growing problem worldwide as a result of human interventions. Countries around the world have recognised the need for international cooperation to protect wildlife, in addition to national legislation. As a result of this process, a complex system of international conventions for the protection of wildlife has been developed. The European Union is a world leader in efforts to protect wildlife and their habitats. The United States also has well-developed and effective legislation. However, this is not the case in China and India, the two Asian countries examined in this study, despite the fact that both countries have a large number of special and endangered species. Although the last few decades have brought several legal regulations for the protection of wildlife, it would be important to modernise legislation, make enforcement more effective and raise public awareness in order to effectively protect wildlife. Conservation of species is an important task for the future, both for the humanity and for the biosphere.

Keywords: wildlife, international conventions, biodiversity, in-situ protection, ex-situ protection

ABSZTRAKT

A 20. század elejétől világviszonylatban egyre növekvő problémát okoz a vadon élő állatok fajainak kipusztulása, illetve veszélyeztetetté válása különféle emberi beavatkozások eredményeként. A világ államai felismerték, hogy a vadvilág megóvása érdekében nemzetközi együttműködés is szükséges a belső jogi szabályozás mellett. Napjainkra e folyamat eredményeként kialakult a vadon élő állatok védelmét biztosító nemzetközi egyezmények komplex rendszere. Az Európai Unió világviszonylatban is kiemelkedő erőfeszítéseket tesz a vadon élő állatok és élőhelyeik megóvása érdekében. Ugyancsak fejlett és hatékony a jogi szabályozás az Egyesült Államokban. A tanulmányban vizsgált két ázsiai országról, Kínáról és Indiáról ugyanakkor ez nem mondható el, annak ellenére, hogy mindkét országban számos különleges és veszélyeztetett állatfaj él, illetve honos. Bár az utóbbi évtizedekben születtek a vadvilág védelmét biztosító jogszabályok, a jövőben fontos cél lenne a jogi szabályozás korszerűsítése, a jogalkalmazás hatékonyabbá tétele és a lakosság tudatformálása a vadvilág eredményes megóvása érdekében. A fajok megóvása az egész emberiség és a bioszféra szempontjából egyaránt fontos feladat a jövőben.

Kulcsszavak: vadon élő állatok, nemzetközi egyezmények, biológiai sokféleség, in-situ védelem, ex-situ védelem

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1. INTRODUCTION

In our study, we analyse the legal regulation of wildlife, with a detailed description of two Asian countries, China and India. The protection of biodiversity has become a major concern, especially since the 1960's. International cooperation to protect biodiversity has been initiated. The reason for this was that the state of biodiversity was deteriorating significantly, mainly as a result of various human activities. These factors include globalisation, climate change, habitat destruction, deforestation, poaching, and the illegal wildlife trade. As a result of all these, many species have become endangered and a lot of today's species could suddenly become endangered or extinct.[4]

The world's countries have had to recognise that international cooperation is needed to protect biodiversity, as many endangered plant and animal species and their habitats are located in more than one country.

The International Union for the Conservation of Nature and Natural Resources, founded in 1948, played an important role in the development of international nature conservation legislation. The Red Book was published by this organisation. Soon afterwards, international nature conservation programmes were launched, for example, in 1970 UNESCO launched an international research programme called the Man and the Biosphere (MAB) programme.

Although the elements of biodiversity – plant species, animal species, protected areas – are closely related, in this study, partly due to space limitations, we focus on the conservation of wildlife species. In order to provide a comprehensive overview of the legislation in the two countries we have chosen, it is necessary to briefly review the international conventions on wildlife and the most relevant US and EU legislation on the subject. Of the international conventions, only the non-regional international treaties aimed at protecting wildlife are described.

2. INTERNATIONAL CONVENTIONS

2.2. The Convention on Biological Diversity

The Convention on Biological Diversity was concluded in Rio de Janeiro in 1992. The Convention aims to safeguard biodiversity and its ecological, social, scientific, educational, and cultural significance.[5] One of the Convention's major positive aspects is that it was the first to draw attention to developing countries, "the enormous value of their biodiversity, but also the immense dangers of the predatory exploitation of biodiversity in these countries, often dictated by economic circumstances."[6]

The Convention takes a new approach and distinguishes between two types of protection. One is ex-situ conservation, which is the conservation of elements of biodiversity, i.e. wildlife species of importance to our topic, outside their natural habitat, while the other is in-situ conservation, which involves the preservation of natural habitats and the maintenance or, where necessary, restoration of viable populations of species in their natural environment. The latter, i.e. the protection of species in their natural habitat, is in our view of primary importance, whereas ex-situ protection should be of secondary importance, i.e. necessary in cases where in-situ protection is not possible. In the Convention on Biological Diversity, the Contracting Parties commit themselves to ensuring the protection of natural habitats, the maintenance of viable populations of each species and the establishment of a regulatory regime necessary to achieve this effectively.

2.2. Washington Convention

The Convention on International Trade in Endangered Species of Wild Fauna and Flora, or CITES,

4 Prugberger 2001, 619–625.

5 1995. évi LXXXI. törvény a Biológiai Sokféleség Egyezmény kihirdetéséről 1. Cikkely.

6 Varga 1998, 7.

adopted in Washington on 3 March 1973, is of paramount importance in international regulation. The aim of the Convention is to regulate international trade in wild fauna and flora species so that their survival is not threatened.[7] The idea of legally regulating wildlife trade dates back to the 1960s and was a fairly new concept at the time.[8]

CITES was born out of the idea that, because wildlife trade crosses borders, efforts should be made to create international regulation. As an international treaty, ‚convention' has two meanings in international law, according to the literature. In the narrow, traditional sense, ‚Convention' is the name given to a number of international treaties of major importance. In a broader sense, it covers the whole range of international conventions, whether or not they include the term ‚convention' in their title.[9]

Our country joined the Washington Convention in 1985.[10] The Parties to the Convention have declared that wild animals should be conserved in their habitats in all their beauty and diversity. An important part of the Convention are the annexes. Annex I lists the endangered species that are or may be targeted by illegal trade in animals. Trade in such species is subject to particularly strict rules. Annex II lists species which, although not yet threatened with extinction, could easily become so if strict rules are not enforced to ensure their survival. Annex III lists those species which any State Party considers it necessary to extend the legal regime to them and to control their international trade. The Washington Convention only regulates international trade in endangered species. This is crucial, as the illegal wildlife trade and poaching have significantly accelerated the extinction or endangerment of many wildlife species. It should be noted, however, that the Convention does not provide for the protection of species' habitats, nor does it provide for the use of species within the country. It therefore provides a forward-looking, but only partial, solution to the problem of wildlife trade. It is important to develop a more effective system of enforcement and monitoring of the Convention in the future.

2.3. The Bonn Convention

The Convention on the Conservation of Migratory Species of Wild Animals, signed in Bonn on 23 June 1979, plays an important role in nature conservation. The main reason for the creation of the Convention was the recognition that special attention should be paid to wildlife species that migrate across national borders. Conservation of such species is only possible with the cooperation of all the States within whose borders they spend any part of their lives. The primary objective of the Convention is to prevent any migratory species from becoming endangered. If this is not possible, it is to protect endangered species as effectively as possible.

Appendix I to the Convention lists the endangered migratory species. Exploitation of the species listed here must be prohibited in their entirety by the States concerned. Appendix II lists those migratory species whose conservation status is unfavourable and whose effective conservation would benefit significantly from international cooperation.

2.4. The Bern Convention

The Bern Convention is specific in that it only covers the Member States of the European continent and therefore protects wildlife in Europe. The Convention is signed by all member states of the Council of Europe.[11] The European Convention on the Conservation of Wildlife and Natural Habitats was adopted in 1979. The primary objective of the Convention is to protect wildlife and their natural habitats, in particular those species whose conservation requires the cooperation of sever-

7 Jámbor 2013, 81.

8 Perczel 1992, 31–37.

9 Favre 2002.

10 Faragó & Lakosné Horváth 1996, 25.

11 Bándi, Faragó & Lakosné Horváth 1994, 37.

al States. Contracting States must take steps to conserve wildlife and their natural habitats, with particular attention to endangered and vulnerable species, including in particular native species.

The Bern Convention was also of major importance in that it laid the foundations for EU nature conservation legislation, which was further developed shortly after the adoption of the Convention with the adoption of the Birds Directive and later the Habitats Directive.[12]

2.5. The Ramsar Convention

The Ramsar Convention is primarily aimed at protecting nature reserves, but its importance for the conservation of wildlife is undisputed. A large proportion of wild species are threatened or extinct as a result of habitat loss or shrinkage. The Ramsar Convention on Wetlands of International Importance was adopted on 2 February 1971. The Convention is based on the premise that wetlands and their distinctive flora and fauna have outstanding ecological functions. It follows that the protection of wetlands and their fauna must be ensured by internationally coordinated measures. By 1999, 116 Contracting States had acceded to the Convention and the number of Ramsar sites had increased to 1,006.[13] In our country, 2,500 square kilometres of wetlands were covered by the Ramsar Convention in 2016.[14] Contracting States are obliged to ensure the conservation, management and appropriate use of migratory waterbird populations.

For bird species in particular, the greatest threat today is the shrinking or loss of habitats. There is therefore no question that the protection of migratory birds by legislation is a priority for the future.[15]

3. THE EUROPEAN UNION

When the European Communities were founded, the primary objective was economic cooperation. As the Communities enlarged and integration deepened, a number of other common objectives emerged, including a common environmental policy.

The primary objective of the EU's environment policy is to protect and improve the quality of the environment and to use natural resources, including wildlife, carefully and sensibly.

The integration of nature conservation policy in the EU started quite early, with the adoption of the Birds Directive in 1979.[16] When the Directive was adopted, the European Union consisted of only 9 Member States, but they already recognised the importance of protecting the bird species in their territory. The number of EU Member States has now increased significantly, with a corresponding increase in the geographical areas where the provisions of the Directive apply. Many additional bird species have been and are still present in the new Member States and need to be protected. The number of bird species to be protected has therefore increased steadily in parallel with this enlargement. The main objective of the Directive is to protect and manage all wild bird species and to regulate the hunting and capture of these species. Member States are responsible for designating special protection areas. The Directive sets out long-term tasks for the conservation and use of all wild bird species.[17]

The Habitats Directive, adopted in 1992, was also an important step forward for the protection of

12 Fleurke & Trouwborst 2014, 128–162.

13 Farrier & Tucker 2000, 21.

14 Istvánovics 2015, 844.

15 Rozan, 2014.

16 79/409/EGK irányelv a vadon élő madarak védelméről, HL L 103., 1979. 4. 25., magyar különkiadás.

17 Tilki 2017, 97.

wildlife.[18] The Directive was primarily motivated by the recognition that endangered habitats and species are part of the Community's natural heritage and that their protection must therefore be addressed at Community level.[19]

Overall, these Directives ensure the conservation of wildlife species and their habitats, with a particular focus on endangered species. The EU is a party to a number of nature conservation conventions. As a result, nature conservation programmes have been launched at Community level, notably Natura 2000.[20] Despite the many efforts the European Union has made and is making to protect wildlife species, it is important to further strengthen the Community level legislation and to develop a more effective system of effective enforcement at Community level and in the Member States.

4. PROTECTING ENDANGERED SPECIES IN THE USA

In the United States, the Endangered Species Act was passed as early as 1973. The main purpose of the Act was to protect endangered species from extinction. Under the Act, a species is considered endangered if there is a possibility of extinction. The law also includes a category of so-called ‚threatened species'. This category includes species that are not yet endangered but may become so in the near future. The Act attempts to protect such species in a number of ways, including making it illegal to sell, import, export or transport endangered species. The Act also provides for the possibility of designating habitats necessary for the survival of such species as so-called critical' habitat.[21]

Breaches of the law can have both criminal and civil consequences. Criminal penalties include imprisonment and a fine of up to $50,000. The civil penalty is a fine of up to $25,000 for intentional violations and a fine of up to $12,000 for negligent violations. For minor offences, much lighter penalties of up to $500 may be imposed.[22]

It is worth noting that the protection of grey wolves is a priority under the Endangered Species Act. By 1978, the Federal Fish and Wildlife Service had listed gray wolves as endangered in 49 states. Over the past decades, partly as a result of strict legislation and partly as a result of successful reintroduction programmes, grey wolf numbers have begun to increase throughout the US.

As a result of an amendment to the Act in 1982, the Fish and Wildlife Service was given the opportunity to translocate wild animals from their natural habitat to new areas in order to reproduce the species' population. Such translocated populations are called experimental populations and are treated similarly to threatened species. Special rules apply to the conservation of such populations.[23]

The United States has an advanced wildlife rehabilitation system. Rehabilitators care for injured animals with the aim of returning them to their natural habitat. Several Member States have adopted legislation on wildlife rehabilitation, which requires that those involved in rehabilitation activities have a special licence from the Member State's chief authority for fish and wildlife conservation.[24]

18 92/43/EGK irányelv a természetes élőhelyek, valamint a vadon élő állatok és növények védelméről, HL L 206., 22. 7. 1992, magyar különkiadás.

19 Tilki 2017, 97.

20 Paulovics 2015, 176–185.

21 Hodges 2010.

22 Hodges 2010.

23 Archibald 2005.

24 Johnson 2012.

Overall, US legislation on wildlife is effective. Wildlife rehabilitation initiatives and legislation can serve as a model for other countries, including our own.[25]

5. CHINA

5.1. First steps to protect wildlife

China has a relatively high wildlife population, which is also a consequence of the fact that it occupies 6.5% of the total land area. China is home to more than 6,347 vertebrate species, accounting for 14% of the world's vertebrate species. Among the wildlife species, there are many that live exclusively in China, such as the giant panda, the South China tiger, the golden-haired monkey and the Chinese alligator, to name but a few. There are also many species of animals that are found in other countries, although they are native to China. These include the Asian elephant, the Siberian tiger, the Asian brown bear and the Mongolian gazelle. Over the past half century, China has faced an increasing number of wildlife extinctions.[26]

In China, policy-making for wildlife conservation started in the 1950s. The measures adopted in 1950 sought to protect rare wildlife, mainly by regulating the hunting of individuals of such species. A state authority for the protection of wildlife was also set up in this period. In 1956, China's first nature reserve was established. In 1965, another 18 nature reserves were established. In 1962, the State Council formulated detailed guidelines for game management and wildlife protection. However, these did not include sanctions for violations of the guidelines. Indeed, the State's own actions contradicted the policy on wildlife protection. Until the mid-1970s, the Chinese government continued producing tiger fur, despite the fact that tigers were state-protected species. A further problem was that during the famine of 1960–1962, members of the official apparatus, soldiers and even ordinary citizens went on hunting expeditions and indiscriminately killed wild animals. According to official statistics, 62,000 wild deer were killed in Sichuan province alone in 1960. And the Mongolian gazelle is on the brink of extinction as a result of hunting.[27]

In China, modern wildlife management began in the post-1978 period, contributing to the conservation of wildlife. From the mid-1980s, game farms, which had previously been state monopolies, were allowed to be run by private enterprises. One of the largest bear farms in China today, which now has around 1,000 bears, started in this period as a small family business with only three wild bears. In 1987, the Chinese government focused on tackling the widespread poaching and illegal trade in protected species.

Among the reforms for the protection of wildlife, the accession of China to the Washington Convention in December 1980 was of particular importance. And in 1983, it signed a bilateral agreement with Japan on the conservation of migratory bird species. Although the number of conventions signed was still rather limited, their importance lay primarily in the fact that the new responsibilities provided an incentive for the country to take wildlife conservation to a higher level.[28]

China's Constitution was adopted in 1982 and was last amended in 2018.[29] The Constitution stipulates that the state shall ensure the rational use of natural resources and the protection of rare species of plants and animals.[30]

25 Paulovics 2018, 408–417.

26 Li 2007, 71–107.

27 Li 2007, 71–107.

28 Li 2007, 71–107.

29 Vetter & Ózsvári 2020, 11–18.

30 Feng, Liao, Hu 2019, 3.

5.2. The ‚protect - domesticate - hunt' principle

In 1988, China passed the Wildlife Protection Law, which provides for the ownership of wildlife, mechanisms for their protection and management, and penalties for violations. The law is based on the principle of ‚protection - domestication - hunting' and states that wildlife species are part of the natural resources and must be managed and protected in a sustainable manner. In 1989, the ministers of Forestry and Agriculture jointly published a list of wild species protected by the state, dividing protected species into two groups. Category I listed rare and endangered species such as the giant panda, the Asian elephant, the golden-haired monkey and 109 other species. Category II includes a number of other species that are also warranted protection, such as the brown bear, salamanders, the Mongolian gazelle, the snow leopard and 301 other species.[31]

In 2016, the Wildlife Protection Act was amended to include a provision that rare or endangered terrestrial and aquatic species of ecological, scientific and social value are protected under the Act.[32] This is ostensibly an improvement, but the Act does not define what is meant by a species of ecological, scientific or social importance, leaving this effectively to the discretion of the legislator.

It should be noted, however, that China has a long history of using wild animals for various purposes. Accordingly, the Wildlife Protection Law has continued to support the ‚domestication' of wild animals. Thus, while it can ensure the survival of some wild species, in many cases it cannot ensure the well-being of individuals.

Penalties for violations of the Wildlife Protection Act have been established and are contained in several pieces of legislation. For example, illegal wildlife trade, smuggling, smuggling of protected species, falsifying documentation on protected animals, and the use of prohibited hunting tools and methods are punishable. Offences against wildlife include poaching, the use of prohibited hunting equipment and the destruction of rare species or other wildlife resources. The seriousness of the offence depends on the species of animal, the number of animals destroyed and their commercial value. In the least serious cases, the penalty is imprisonment for up to three years, while in the most serious cases, the penalty is imprisonment for 10 years to life or even death.[33]

It can therefore be concluded that the perpetrators of offences against wildlife and wildlife species can be punished with very severe sanctions, but the question is whether this is an effective way to protect wildlife. Despite the strict rules, in 2004 the Forestry Bureau carried out China's first national wildlife survey and found that urgent action was needed to save many species from extinction.

5.3. Regulatory problems

Critics argue that China's Wildlife Protection Law repeatedly emphasizes the ‚rational use' of wildlife resources, implying that it does not strictly prohibit their exploitation. According to a Chinese professor of animal welfare, the Wildlife Protection Law treats wildlife species as resources of wildlife, similar to mineral resources or resources of arable land. It follows that wildlife resources also serve human needs.[34]

Another serious problem is that the Wildlife Protection Act makes it the responsibility of local authorities to compensate for agricultural and other damage caused by protected species, and most provinces do not have the resources to do so. For example, China's north-western provinces have opened up various hunting grounds to foreigners. Their official justification is that the money raised from this is used to conserve wildlife species. In reality, however, this is doubtful, as no one is mon-

31 Li 2007.

32 Feng L, Liao W, Hu J 2019.

33 Li 2007.

34 Li 2007.

itoring it. In Anhui Province, Chinese alligators, which are classified as endangered species, are artificially bred to preserve the species. This breeding site has also been opened as a tourist attraction. And with the permission of the China Wildlife Conservation Foundation, two local restaurants will serve Chinese alligator meat dishes. According to other sources, other restaurants besides those with permits also offer alligator meat dishes on their menus. Given all this, it is not entirely unexpected that the Chinese Wildlife Protection Law faces significant challenges in its effectiveness.

The Wildlife Protection Act assigns a number of tasks and responsibilities to the provinces, but does not provide funds for them. There are also provincial regulations (e.g. Shanghai) where wildlife protection is not even included in future development plans. The prevailing stance of local authorities is that allocating funds for the conservation of endangered species would detract from resources designated for productive activities. This does not necessarily align with the priorities of local authorities. Nor have any regional or local wildlife authorities been established in the country. In its absence, it is obvious that there is no dedicated body to enforce the rules. Where such bodies do exist, limited funding often hampers their ability to effectively carry out their responsibilities.

In China, game farms started in the 1950s, and by the late 1970s there were approximately 3,000 such farms, raising hundreds of thousands of mink. In the 1990s, game farms were already breeding 40 species of wild animals, including bears, Siberian tigers and Chinese alligators. In 2003, the China Wildlife Conservation Bureau itself announced that China had succeeded in breeding 54 species of wild animals for commercial purposes. These figures confirm that wildlife conservation in China is not primarily for nature and species conservation, but rather for economic purposes. It can also be concluded that animal welfare receives relatively little, if any, attention. The industrialisation of game farms has also resulted in more animals being used for food.[35]

In 2020, the emergence of the coronavirus epidemic in China led to calls from the Chinese legislature and scientific community to ban the use of wild animals for food.[36] However, as this is very widespread in China, it is likely to be a challenge to implement this effectively. It should also be noted that the reason for the bans in this case is not to protect animal species, but rather to protect human health and prevent epidemics, i.e. not for conservation purposes.

As far as the animal welfare provisions of the Wildlife Protection Act are concerned, it is noted that it does not even contain minimum standards for animal welfare. The consensus among Chinese animal welfare scholars and activists was that at least the five freedoms for animals should be enshrined in law, i.e. to provide conditions that protect animals from pain, suffering, lack of space, food shortages and behavioural disorders. However, these provisions have not been included in the Wildlife Protection Act. Further problem is that the few existing animal welfare provisions do not apply to captive animals, leaving many animals on game farms with even less protection than their natural counterparts.

Overall, it can be observed that, despite the adoption of the Wildlife Protection Act, challenges related to wildlife conservation and the extent of their decline have persisted and, in some cases, become more pronounced. In many cases, the Wildlife Protection Act contains provisions that are unworkable or unenforceable in practice. In the future, a complete revision of the Wildlife Protection Act would be necessary to ensure the survival of species and the humane treatment of individuals. Legislative solutions are needed in the short term to solve the problems in the field of wildlife protection, and both legislative and political solutions in the long term.

35 Li 2007.

36 Huang et al. 2021.

6. INDIA

6.1. Evolution of the legislation

India has a long history of legal regulation of wildlife conservation. The first codified legislation, the Wild Birds Protection Act, was passed by the British in 1887. Later, the Indian government passed a comprehensive Wildlife Protection Act in 1972. The Act provided the framework for regulating the safety and welfare of wildlife species. The Act was subsequently amended on several occasions (1976, 1982, 1986, 1991, 1993) and has become increasingly effective as a result of these amendments. The Constitution of India also lays emphasis on the protection and conservation of the country's national heritage.[37] The 1960 Constitution of India has already made it the duty of every citizen of India to protect and improve the natural environment, including forests, lakes, rivers and wildlife, and to have compassion for all living creatures. The above constitutional obligation is complemented by a further provision that the state shall endeavour to protect and improve the environment and protect the forests and wildlife of the country. Both constitutional provisions were introduced by the 42nd Amendment in 1976. Although the constitutional provisions are not directly enforceable in the Indian courts, they provide a constitutional basis for the enactment of legislation at the central and district levels for the protection of animals, particularly wildlife.[38] In addition, India acceded to the CITES Convention in 1976. The legal framework for the protection of wildlife is complex and includes provisions in the Indian Penal Code, the Customs Act, the Forest Protection Act, the Environment Protection Act and the Prevention of Cruelty to Animals Act.[39] There is a separate law on biodiversity which regulates the use and protection of biodiversity in accordance with the provisions of the Wildlife Protection Act.[40]

Today, India is party to almost all international conventions on wildlife conservation.[41]

It is perhaps not so well known how high and varied the wildlife diversity is in India. India is home to 411 mammal species, 1,232 bird species, 456 reptile species, 219 amphibian species and 2,546 fish species. In addition to this outstanding biodiversity, 104 national parks, 18 bio-reserves and more than 515 zoos have been established in India to conserve wildlife species.[42]

Unfortunately, despite legislation and the CITES Convention, the illegal wildlife trade continues to flourish. The trade in wild animals, their parts and products is a very lucrative business. India is involved in this business as an importer, exporter and transit country.[43]

The protection of endangered species was first introduced into the Wildlife Protection Act in 1991. At the same time, rules on the import and export of wildlife species were tightened. Despite this, the protection of non-native species in India is still not effectively enforced. In fact, according to views in the literature, India should also more effectively enforce its obligations under the CITES Convention. According to a 1995 report by the Wildlife Protection Society of India, there are serious gaps in the practice of the courts in the enforcement of wildlife-related criminal law provisions. In the five-year period examined by the organisation, only 2

37 Singhar 2002, 1113.

38 Kavuri 2020.

39 Singhar S A 2002 1113.

40 Kunte 2008, 729.

41 Srivastava & Tyagi 2016, 208.

42 Soni 2020, 796.

43 Singhar S A 2002 1113.

or 3 persons were sentenced to imprisonment for wildlife offences. In the other cases examined, traffickers and nose hunters were released on bail, followed by extremely lengthy procedures involving recourse to legal remedies. Members of one of the most serious wildlife trafficking syndicates were busted in Delhi in 1974 and the leader of the organisation was finally jailed in 1994.[44]

6.2. Possible means of combating wildlife crime

Criminology suggests that three factors deter crime: 1. the certainty of punishment, 2. the speed of enforcement, and 3. the severity of penalties. It is now generally accepted in the literature that of the three factors, the inevitability of punishment carries the greatest weight. In other words, if there is little chance of conviction and punishment when the offence is committed, then even if the penalty is severe, the deterrent effect of committing the offence will be low. This is important to emphasise because in India, the conviction rate for wildlife offences is particularly low. Also working against the reduction of wildlife crime is the fact that, as has been mentioned, the length of proceedings leading to prosecution is extremely long. Taking all this into account, effective and efficient protection of wildlife can only be achieved in the medium term. To this end, legislation and the application of the law must be developed gradually but continuously.

As a first step, the work of the investigative bodies must be made faster and more effective in the case of offences against wildlife. Within law enforcement agencies, specialised units for wildlife crime should be established, whose members should be developed through specific training and education. It is important to involve the general public, especially rural people, in activities to protect wildlife and their habitats, for example by providing them with work opportunities within national parks and wildlife protection bodies. The State Forest Department staff should be selected from among those who are particularly well trained in wildlife cases. Their expertise can help to make wildlife conservation more effective.[45]

In general, as in India, the survival of endangered species requires the protection of their habitat. Although India has protected areas, 60–70% of wildlife populations live outside protected areas. For example, more than two-thirds of Indian tigers live outside designated tiger reserves and receive minimal protection. A major challenge for the future is to significantly expand the protected natural areas that provide wildlife habitat.

It cannot be ignored that wildlife conservation alone through government and administrative intervention in India cannot be effective enough. It is important to build cooperation with as wide a section of society as possible, working with NGOs with a well-trained and committed membership, in order to make wildlife conservation a success.

For the widest possible cooperation to be effective, we need accurate data on the number of endangered species, their location and habitats within the country. It is important to modernise the data inventory system and to collect and record data on an ongoing basis, making them available to voluntary conservation bodies where necessary.[46]

And finally, why is India important? India is a vast country, also extremely rich in wildlife species that are found only here in their natural habitat. We believe that these species must not be allowed to disappear from the face of the earth. The extinction of species in India would be extremely damaging for humanity as a whole and for the biosphere, and further efforts must be made to protect these species, partly by strengthening international cooperation and partly by making Indian legislation and law enforcement more effective.

44 Singhar S A 2002 1115.

45 Singhar S A 2002 1116.

46 Singh 1999, 36.

7. SUMMARY

It can be seen that wildlife conservation has gained considerable momentum since the 1970s, both at international level and in some of the countries studied. The system of international conventions for the protection of wildlife is now a complex one. At international level, it is accepted that the conservation of wildlife requires the cooperation of States and that the provisions of the conventions require a unified and rigorous approach to activities that threaten and endanger wildlife.

The European Union is taking outstanding global action to protect wildlife. This is mainly due to the fact that wildlife conservation in Europe is becoming more effective and efficient. Detailed and strict legislation is also in place in the United States. Although this study does not address the issue of conservation, it is important to emphasize that in developed countries worldwide, wildlife conservation is closely linked to ensuring the welfare of these species.

Unfortunately, the same cannot be said of the countries examined in the second part of the study, namely China and India. In addition to the above, it can be summarised that, although in recent decades there have been advances in the legal regime in both China and India, partly due to the accession of the two Asian states under review to a number of international nature conservation conventions, effective legal protection of wildlife, including endangered species, has not been ensured to date. A particular problem is that existing rules are not effectively enforced and the general public is not well informed about the importance of the issue. While conservation efforts are improving, a concern remains that endangered species are increasingly bred in captivity, sometimes under inadequate welfare standards and conditions that may compromise their well-being. The Asian countries under review still have progress to make in the future to further modernize their legislation, enhance the effective application of their laws, and support societal development.

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