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## “EVALUATING COMPENSATION MECHANISMS FOR VICTIMS OF HUMAN– WILDLIFE CONFLICT IN INDIA”

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### ABSTRACT

Human-wildlife clash has become one of the most urgent issues in the conservation and human livelihood interface in India. The high level of habitat fragmentation, urbanization and encroachment into forested territory have increased human and wild animal interaction, which has in most cases led to loss of life, injuries, crop losses, and property damages. To address these effects, there has been the establishment of some compensation systems by both the Central and State governments both within the statutory provisions through the Wildlife (Protection) Act, 1972 as well as through policy provisions and administrative schemes. But these processes are usually marred with delays, bureaucracies, insufficient financial alleviation and interstate inconsistencies. In this paper, the current compensation systems will be assessed in terms of their legal foundation, the efficacy of the procedures and the problems related to their implementation. It also examines the judicial intervention and case law which has influenced the right to remedy against victims of human-wildlife conflict. The paper critically pinpoints structural firewall to accessibility, uniformity, and fairness. Lastly, the paper proposes some reforms that should be adopted to standardize the compensation policies and the establishment of a separate quasi-judicial system, which should address the mitigation of conflicts. The research puts the whole issue in context of the larger discourse of environmental justice to highlight the dire need to implement a rights based, transparent, and sustainable compensation system to victims of human-wildlife conflict in India.

**Keywords:** Human–Wildlife Conflict; Compensation; Environmental Justice; Wildlife Law; Victims’ Rights; India; Policy Reform

### INTRODUCTION

#### 1.1 Background

One issue that has remained unresolved in the border of conservation and rural livelihoods in India is the issue of human-wildlife conflict. Due to the increase in wildlife populations in some landscapes and the growth in the presence of people due to agriculture, infrastructure, and extracting resources, the interaction between people and wild animals are leading to higher rates of crop depredation, livestock kills, property damages, injuries and fatalities.<sup>2039</sup> In addition to these direct injuries, human-wildlife

conflict has cascading social costs, lost workdays, debts due to replanting, trauma and fear that changes the everyday life, and increased hostility towards conservation institutions.<sup>2040</sup> Compensation, ex gratia payments, insurance-type payouts and livelihood support has thus become a key policy tool of conflict alleviation, tolerance of wildlife and the furtherance of the validity of the State conservation law.<sup>2041</sup>

<sup>2039</sup> Nat'l Tiger Conservation Auth., *Status of Tigers in India 2022* (2023).

<sup>2040</sup> World Wildlife Fund–India, *Human–Wildlife Conflict in India: A Review* (2021).

<sup>2041</sup> Ministry of Env't, Forest & Climate Change, *Integrated Development of Wildlife Habitats Scheme Guidelines* (2019).

The compensation structure of India is stratified and multi-layered. It extends into central guidelines (such as frameworks of disaster-relief style), State forest department plans, and a piece-meal series of administrative circulars that define what may be claimed, what it must be proved by, and what it must pay out. In other areas, these are complemented with pilot insurance products, public-private partnerships and community based verification practices. But there is a noticeable interstate difference, not merely in the amount of the compensation, but also in the length of time of disbursement. States, like Maharashtra and Karnataka, have proceeded to digitized claim systems, which allow payment within weeks, but in some other states, like Jharkhand, Assam, or Madhya Pradesh, claims may take many months ago, particularly where crop loss and livestock claims are involved. This is further enhanced by variations in payout ceilings: in Kerala, a family of the person killed by an elephant can have up to ₹10 lakh<sup>2042</sup>, whereas in states with a stricter budget, or where political priorities are lower, it can be much less despite the case being similar. Such divergences on a state level, in conjunction with the existence of bureaucratic bottlenecks, tend to imply that relief would not come in time to offset the acute financial shock, compelling families into either being distressed or going into debt.

## 1.2 Statement of Problem

The issue of human-wildlife conflict has become a severe socio-ecological problem in India especially in the states surrounding forests and corridors of wildlife. Although there are compensation schemes in either central or state systems, they are still disjointed, bureaucratic and ineffective in delivering promptness, under-appraisal, and inappropriate relief. The victims who are largely marginalized rural populations lose their livelihood in addition to being injured and even dying but the compensation process is not

uniform, transparent, and timely. This loophole does not only undermine confidence in governance but also jeopardizes conservation, as the communities who are affected tend to retaliate against wildlife. It is thus urgent that India should be critically reviewed in terms of its compensation mechanisms and proposed reforms on the mechanism so that it is fair, accessible and sustainable.

## 1.3 Research Questions

This study is guided by the following research questions:

1. What aspects are the major statutory provisions, administrative guidelines, schemes in particular states, as well as judicial precedents, which make up the legal and policy framework concerning compensation in the context of human-wildlife conflict in India?
2. What is the variation in compensation structure between states with regards to compensation payout in human death, injury, crop damage, and livestock loss, and what is the impact of this variation on the perception of equity by the affected communities?
3. What are the significant delays in time associated with evaluating and paying out the compensation and how the delays vary across states and types of loss?
4. What are the degree to which current mechanisms secure accountability, transparency and grievance redress in the compensation process and how does the administrative discretion impact on fairness and predictability?
5. Which legal, administrative, and policy-related changes, such as the introduction of a quasi-judicial tribunal, the use of standard methods of assessments, the implementation of digitized disbursement systems, and preventive actions, would serve to enhance the efficiency, equity, and expediency of compensation systems?

<sup>2042</sup> Kerala Forest Department, *Compensation for Victims of Wildlife Attacks Guidelines* (2022).

#### 1.4 Significance of Research

This study is important both in theory and practice. Theoretically, it adds to the accumulating literature on environmental justice by anticipating the rights and interests of those communities that will have to disproportionately bear the cost of conservation. In practice, the research points out practical reform policies, which can be embraced by policy makers, forest department officials, and legislators in order to enhance the human-wildlife conflict compensation architecture in India. In a world where the tiger and elephant populations in India are resurgent and the extent of corridors is growing into the human-dominated world, the need to have strong compensation systems cannot be overemphasized.

#### 1.5 Scope and Limitations

The study utilizes majorly a doctrinal approach of law, relying on law, judicial rulings, administrative regulations, and international models. Although the issues of implementation at the field level are mentioned, the research does not engage in primary empirical research among the impacted communities. It is confined to the domestic legal system of India, and the comparative observations are made on Kenya, Tanzania, and Sri Lanka. The village level informal or customary compensation practices are beyond the scope of this study.

#### 1.6 Research Objectives

The study is meant to discuss the legal and legal framework that regulates compensation in human-wildlife conflict in India. It aims to examine the difference in inter-state compensation practices and determine the impacts of such differences on equity and perceptions of justice by the affected communities. The research also intends to determine the institutional and procedural causes that lead to the delay in the process of damage estimation and awarding compensation to the victims.

Moreover, the study will also aim at critically assessing the current gaps on accountability, transparency, and grievance redressal in the compensation process. Through examining these inadequacies, the study aims at bringing out the structural and management issues confronting the successful implementation of the compensation schemes. Finally, the study will be focused on making legal, administrative, and policy changes that would reinforce, simplify, and standardise the compensation system in human-wildlife conflict in India.

#### 1.7 Research Methodology

The study is based on the doctrinal approach to law, which is especially appropriate when it comes to studying the human-wildlife conflict compensatory systems in India. The doctrinal approach is concerned with a precise analysis of the current legal texts, statutes, judicial utterances, and real policy documents. Using the power of authoritative sources, the study attempts to give meaning to the prevailing system of law, gaps, and assess the relevance of current mechanisms in availing redress to victims.

The core of the research is made up of primary sources whose main concern is the Wildlife (Protection) Act, 1972 that is the backbone of wildlife conservation laws. In conjunction with the Act, government communications, and circulars and guidelines by the National Tiger Conservation Authority (NTCA) and the different State Forest Departments have been considered. Secondary sources are used to supplement the primary legal materials and provide critical views, independent analysis, and comparative views. The decisions of the Supreme Court and other High Courts have been methodically examined in order to comprehend how the courts have interpreted the statutory provisions and influenced the way that compensation schemes would be operationalized.

## LITERATURE REVIEW

### 2.1 Legislative Framework

#### A. Central Government Legislation

The Wildlife (Protection) Act, 1972 is the major legal act of the given field in India and indirectly regulates the issue of human-wildlife conflict remuneration. Although the Act grants the authority to state governments to design rules and administrative plans to relief, it does not include a specific amount of the compensation, and the states are allowed to decide the rate, by a notification and departmental plans. At the national level, the scheme of Integrated Development of Wildlife Habitats which is managed by the Ministry of Environment, Forest and Climate Change offers financial relief in case of the loss of human life, serious injury, crop damage, and loss of livestock due to the wild animals. The scheme has [?]10 lakh human death compensation and follows a shared funding pattern between the Centre and the States with a normal pattern of 60:40 and 90:10 in North-Eastern and Himalayan region respectively. National Tiger Conservation Authority also provides guideline with prescription [?]5-10 lakh compensation of death due to tiger or leopard attacks, in addition to relief of injuries and loss of livestock. And also, certain states offer benefits as part of disaster relief systems as wildlife-related fatalities, as accidental deaths under ex gratia benefits.

#### B. State-Level Schemes

The Wildlife (Protection) Act, 1972 gives powers to the states, which have their own compensation laws by notification of the forest department, government order or resolution. Because of this, the compensation arrangements in India do differ significantly. Kerala has the Rules of Payment of Compensation to Victims of Attack by Wild animals, 1980. The Tamil Nadu offers relief in form of forest department government orders that are issued under the central Act. Karnataka uses wildlife compensation regulations by departmental notification and Uttar Pradesh

has a Wildlife Conflict Compensation Scheme which runs under the state forest department. The state of Madhya Pradesh depends on the departmental circulars and state compensation rules extensively. The state of Maharashtra has government resolutions that prescribe compensation in terms of death, injuries and damage of crops. A number of states across the North-Eastern region like Assam also implement compensation under the rules and notifications of the forest department under the Wildlife (Protection) Act.

### 2.2 Scholarly Literature

The legal and policy issues that are linked with human-wildlife conflict in India have become the focus of growing scholarly attention. Walia and Srivastava (2024) focus on the causes and the effects of the conflict and examine the legislation regulating it, including the Wildlife (Protection) Act, the Forest Rights Act, 2006, the National Wildlife Action Plan, and the Project Tiger, pointing out the gaps in the implementation and the lack of awareness of stakeholders. Pati (2023) posits that the current legislation on wildlife does not respond to the issue in conflict situations, as no legal acts specifically regulate the conflict, and that the community-driven response with enhanced legislative support should be implemented. Rajan (2025) compares Karnataka and Kerala legal systems and offers some reforms based on the cooperation of states and the international experience.

### 2.3 Judicial Precedents

The legal framework on compensation for human-wildlife conflict has featured in a number of landmark cases in India. Himachal Pradesh v. State of Himachal Pradesh. The Supreme Court expanded Article 21 to encompass the rights to livelihood and dignity, thereby providing a constitutional basis for compensation claims in cases where environmental or ecological harm harms citizens. The case was not a direct wildlife case, but in the determination, the State was liable to ensure that people were not subjected to

environmental damages and could be compensated when they suffered such damages.

WWF-India v Centre for Environmental Law, in WWF-India, 2005, p. 5. In deciding on the translocation of the Asiatic lions, the Supreme Court noted that the human costs of living with wildlife should be considered in conservation efforts. The Court recognised that the communities residing near wildlife habitats require proper compensation to protect their right and livelihoods.

Judicial review was also enhanced in the case of People's Union for Civil Liberties v. Union of India, the Court ordered the authorities to standardise the relocation and compensation package and hold the administration accountable. These principles have also been strengthened by the High Courts. In Rajeev Surendra Kumar v. State of Kerala, the state of Kerala was required to pay interim compensation for the death of elephants within 30 days, and judicial pronouncement such as Lata Wankhede v. State of Maharashtra, the State of Maharashtra accepted compensation as a binding right and did not encourage refusal to pay claims arbitrarily.

## LEGAL AND POLICY ANALYSIS

### 3.1 Legal and Policy Framework for Compensation

The law on wildlife in India is mainly represented by the Wild Life (Protection) Act, 1972, a law, which has been amended severally to enhance conservation demands, but has scarcely mentioned compensation as a statutory right.<sup>2043</sup> The Act also equips the State with powers to conserve the endangered ones, to control the hunting, and inform the protected places, but leaves the responsibility of the State to compensate the damaged people to wildlife outside of the Act. Rather, it is an administrative practice that compensation has been created mainly through notifications by the state forest departments and guidelines published by

<sup>2043</sup> Wildlife (Protection) Act, No. 53 of 1972, INDIA CODE (1972).

central agencies, like Ministry of Environment, Forest and Climate Change (MoEFCC) and National Tiger Conservation Authority (NTCA)<sup>2044</sup>. As an example, the NTCA has provided specifications on ex gratia to victims of tiger attacks with uniform values on the death, injury, and loss of livestock. <sup>2045</sup>On the same note, states like Madhya Pradesh, Kerala and Assam have gone ahead to issue government orders specifying rates to be paid in case of crop damage and human losses. This framework is supplemented by judicial precedents and the Supreme Court in Centre for Environmental Law v. Union of India <sup>2046</sup>stressing that conservation should be weighed against the livelihood issues of the residents living on the fringes of the forests and the High Courts in Kerala and Uttarakhand consistently reminding forest departments that they should promptly make payments to the victims of the elephant raids. Collectively, the framework can be aptly characterized as a mix of statutory silence, administrative discretion and judicial activism. Such codification obviation has such serious implications of legal uncertainty: victims do not have a legal right to compensation under the very Act, but they can get relief in the form of government orders or judicial orders. The initial research question, thus, sheds light on a crucial void that is whether compensation is to be treated as a grace of the administration or put on a higher plane as a statutory right that can be enforced by courts and tribunals.

### 3.2 Compensation Structures and Perceptions of Fairness

The Indian federal system permits states to establish their regulation, which leads to drastic differences in remuneration. The compensation on human death due to attack of a wild animal can be 10 lakhs in Kerala, but 5 lakhs in

<sup>2044</sup> Ministry of Env't, Forest & Climate Change, *Integrated Development of Wildlife Habitats Scheme Guidelines* (2019).

<sup>2045</sup> Nat'l Tiger Conservation Auth., *Standard Operating Procedure for Dealing with Tiger Attacks on Humans* (2013).

<sup>2046</sup> Ctr. for Env't Law, WWF-India v. Union of India, (2013) 8 S.C.C. 234 (India).

Assam<sup>2047</sup>. In certain states crop damage compensation can be calculated in relation to acreage, in other states it can be calculated in relation to the number of plants or estimated yield. Losses in livestock also pay out differently by species with cows, buffaloes and goats having different values in different regions. Such inequalities have significant constitutional concerns in Article 14 which provides parity before the law.<sup>2048</sup> How would the widow of a farmer who was killed by an elephant in Bihar be given half of the sum paid to a widow in Karnataka who was at the same position? Federalism is a principle that supports some degree of varying but the principle of fairness requires a minimal standard on which the national level should have at least a minimum to avoid glaring inequities. In addition, differences in compensation affect the legitimacy of the State in the society. In instances where the compensation is perceived to be poor, communities can turn hostile to conservation programs, and hence, they can either retaliate by killing wildlife or reject regulations of the protected areas<sup>2049</sup>. Therefore this question is not only about the administrative differences but also how they affect the social legitimacy, community trust, and conservation outcomes in general.

### 3.3 Causes of Time Delays in Compensation

Even where the amounts of compensation provided are reasonable, the relief is frequently wasted by delays which take months or years. Immediate assistance to the victims of crop damage is needed to buy the new season of seeds; however bureaucratic mass is often very strict and often requires numerous levels of verification, visits to the location, panchayat certificates, and forest rangers validation. When it comes to human deaths the family can be destitute as it awaits ex gratia payments. Research in Assam, Odisha and Chhattisgarh demonstrates that in many cases, the process

of compensation regarding the damage caused by wildlife requires over six months, mainly because of the delay in confirming that the damage was actually caused by an elephant.<sup>2050</sup> In the same manner, in Maharashtra at times livestock loss claims demand postmortem certificates of animals, which is not practically feasible to the poor farmers in the remote villages. Such delays point to the structural flaws: inadequate funding of forest departments, absence of a consistent system of assessment, and the overdependence on manual paper-trail. The effects go beyond financial misery. Stalling creates resentment, destroys trust of the State, and can even lead victims into debts. Comparative cases help here: in Sri Lanka, a model establishing insurance covers guarantees a fairly fast payout, whereas in Kenya, there are legal structures that force the State to act in claims processing within given time frames. In comparison, Indian victims have to cope with inactive bureaucracies, and no surety of speed exists. Delayed justice in compensation is usually justice denied.

### 3.4 Accountability, Transparency, and Administrative Discretion

In India, the compensation process is controlled by the administrative discretion, and the verification and disbursement are under the control of the forest officials to a great extent. This arbitrariness tends to follow out of this discretion. There are those instances where authorities deny claims on grounds of inadequate evidence yet such evidence is all-inclusive, and on the other hand, a case of favoritism where some people get special treatment. Transparency remains weak. In a large number of states they do not post statistics on the number of claims made, the sums paid and the factors that caused rejection. There is not much redressal of grievances to the victims. Addressing the higher officials is tedious and no special tribunal is

<sup>2047</sup> Kerala Forest Department, *Compensation for Victims of Wildlife Attacks Guidelines* (2022).

<sup>2048</sup> INDIA CONST. art. 14.

<sup>2049</sup> World Wildlife Fund–India, *Human–Wildlife Conflict in India* (2021).

<sup>2050</sup> Vidhi Ctr. for Legal Policy, *Tackling Human–Wildlife Conflict in Karnataka* (2020).

assigned to listen to such cases. Despite the jurisdiction of the National Green Tribunal over environmental conflict cases, it has not been popular in individual compensation cases that occur due to human-wildlife conflict.<sup>2051</sup> Accountability has at times been forced by judicial interventions. Courts of last resort have dictated the digitalization of records and departments to develop schedules. But these are stop and shop interventions rather than systematic reforms. The lack of any accountability mechanisms is also a rejection of the constitutional principles of natural justice and the rule of law. The victims are at the mercy of goodwill on the part of the administration and they can hardly be predicted or enforced. This dimension of the analysis thus touches upon the important requirement of the structural protective measures, which limit discretion and increase transparency and offering an effective solution to grievances.

### 3.5 Comparative Insights on Human-Wildlife Conflict Compensation

In analyzing the world context in the compensation of human-wildlife conflicts, a number of nations have established formal and institutionalized forms of compensating the negative effects of wildlife on human livelihood. These models are not only intended to offer financial redress, but to encourage coexistence by way of predictable and enforceable means that India has not fully followed in its footsteps.

A good example of a structured approach is provided in Kenya. Kenya has established a broad Wildlife Compensation Scheme under the Wildlife Conservation and Management Act, 2013 to offer statutory compensation to the victims of wildlife attack who have either been killed, injured or their property damaged.<sup>2052</sup> Part of the funding is obtained based on the tourism income hence connecting the conservation incentives and the local livelihoods. A Wildlife Compensation Committee manages its

administration, with systematic and responsible payouts. The Kenyan example shows that it is useful to have a clear legal right that victims can get: victims are guaranteed to receive relief, bureaucracy is reduced to a minimum and the communities are more inclined to accept the conservation steps.

One of the legislative methods that Tanzania has implemented is the Wildlife Conservation Act, 2009 that requires the government to take the responsibility of compensating the victims of wildlife-related harm.<sup>2053</sup> Although the legal framework was very clear, there have been inconsistent implementation with delays and lack of administrative capacity being some of the challenges that have affected the effectiveness of the scheme. However, an approach like that of Tanzania puts a lot of emphasis on the legal aspect of a compensation as the basis of a more organized relief system.

A case in point, but a teaching example, is Sri Lanka. In 2017, the Sri Lankan government introduced a public-private partnership where an insurance based scheme was introduced to compensate farmers whose crops and livestock were destroyed by elephants.<sup>2054</sup> Outsourcing some of the risk management to insurance companies means the scheme shortens the length of red tape and offers relief on time and in a predictable manner. By comparison, India has a much more dependent administrative and discretionary system overseen by state forest departments. The comparative analysis indicates that the present mechanism in India is still reactive and discretionary as opposed to a proactive and rights-based mechanism. The statutory model adopted by Kenya and the insurance practice by Sri Lanka can be used as guidance in making a more robust, fair, and predictable system of compensation in India.

<sup>2051</sup> National Green Tribunal Act, No. 19 of 2010, INDIA CODE (2010).

<sup>2052</sup> Wildlife Conservation & Mgmt. Act, No. 47 of 2013 (Kenya).

<sup>2053</sup> Wildlife Conservation Act, No. 5 of 2009 (Tanzania).

<sup>2054</sup> Ministry of Sustainable Development & Wildlife (Sri Lanka), *Human-Elephant Conflict Mitigation Insurance Scheme* (2017).

## FINDINGS

### 4.1 Fragmented Legal Framework

Compensation of human-wildlife conflicts in India is a compound of legal and policy framework that comprises statutes, administrative directions, and the judicial precedents. Wildlife (Protection) Act, 1972 is the primary legislation that regulates the conservation of wildlife, which also lacks a clear statutory right to compensation by the Stat<sup>2055</sup>e. The Act itself does not therefore place a legal obligation on compensation of the victims. The framework rather is based on administrative discretion and policies: notifications of state forest departments, and guidelines of central authorities such as the MoEFCC and NTCA.<sup>2056</sup> The judicial precedent cases have been instrumental in bridging the silence in statutes and the Supreme Court in Centre for Environmental law v. Union of India highlighting the need to find a balance between the conservation and the livelihood issues of local communities<sup>2057</sup>, and the High Courts instructing the forest departments to pay the victims sooner.

### 4.2 Inter-State Inequality and Sense of Justice.

The compensation system differ greatly with regard to different states and the effects of such on the perception of fairness by the society that has been affected are far reaching. In Kerala, a human death due to wildlife may be compensated 10 lakhs but in Assam, the compensation is 5 lakhs.<sup>2058</sup> There are varied ways of calculating crop damage with some states having a per-acre rate, and others calculating based on the number of plants or projected yield. The payouts also differ with livestock by species and region. These inequalities shed serious concerns on the distributive justice and equality under Article 14

of the Constitution.<sup>2059</sup> When the communities see that victims in the adjacent states are paid more in the event of similar losses, this brings about a sense of being underestimated and forgotten. This perceived inefficiency may result in aggression towards conservation programs, loss of faith in the legitimacy of the State and in severe instances, retaliatory killing of wildlife.<sup>2060</sup>

### 4.3. Assessment and Disbursal Systemic Delays

A systematic problem that only worsens the financial distress of victims is major time delays in evaluation and payment of compensation. The procedure can take several verification stages such as visiting the location, issuing official certificates, and permission by various officials. The payment of compensation relative to the elephant damage in such states as Assam, Odisha and Chhattisgarh may require more than six months to complete as the reasons of the damage are not immediately verified.<sup>2061</sup> In livestock loss, there are states that upon such, post-mortem certificate is required which, in most cases, cannot be accessed by poor farmers in remote villages. The root causes of these delays include inadequately funded forest departments, use of paperwork, and lack of proper evaluation procedures that lead victims into debts and loss of confidence in the process.<sup>2062</sup> The shortcomings of accountability and transparency are examined, and the company is rated as deficient in both aspects.

### 4.4 Accountability and Transparency Deficits.

Current compensation systems in India do not include proper accountability, transparency and grievance redressal. Administrative discretion has a significant effect on the process where the local forest officials exercise considerable influence on verification and disbursal giving way to arbitrary rejection and

<sup>2055</sup> Wildlife (Protection) Act, No. 53 of 1972, INDIA CODE (1972).

<sup>2056</sup> Ministry of Env't, Forest & Climate Change, *Integrated Development of Wildlife Habitats Scheme Guidelines* (2019); Nat'l Tiger Conservation Auth., *Standard Operating Procedure for Dealing with Tiger Attacks on Humans* (2013).

<sup>2057</sup> *Ctr. for Env't Law, WWF-India v. Union of India*, (2013) 8 S.C.C. 234 (India).

<sup>2058</sup> Kerala Forest Department, *Compensation for Victims of Wildlife Attacks Guidelines* (2022).

<sup>2059</sup> INDIA CONST. art. 14.

<sup>2060</sup> World Wildlife Fund-India, *Human-Wildlife Conflict in India: A Review* (2021).

<sup>2061</sup> Vidhi Ctr. for Legal Policy, *Tackling Human-Wildlife Conflict in Karnataka* (2020).

<sup>2062</sup> Pati, *Human-Wildlife Conflict Governance in India*, 15 ASIAN ENV'T L. REV. 221 (2023).

favoritism.<sup>2063</sup> Most states do not make claims news available to victims leaving them with little redressal mechanisms of grievances. The National Green Tribunal has limited jurisdiction in the field of individual compensation cases though it has been used in selected cases of environmental disputes<sup>2064</sup>. Although judicial interventions are useful, they are interim and fail to result in a wholesale reform. Absence of formal and accessible grievance mechanism confounds constitutional values of natural justice and the rule of law.

#### 4.5 Disparity or Gap between the statutory structure and realities on the ground.

The general conclusion of the study is the presence of a deep discrepancy between the legal formulations and actual conditions of the victims of human-wildlife conflict. Although there have been progressive judicial pronouncements that have widened the scope of Article 21, issues like delays in making verifications, arbitrary dismissal of claims, and lack of adequate payout amount have remained.<sup>2065</sup> This lacks a statutory right to compensation, and thus relief is always subject to administrative goodwill, budgetary provisions and at the mercy of forest authorities. This makes the compensation structure structurally inefficient to the scale and urgency of the issue that it targets to deal with.

### SUGGESTIONS

#### A. Establishment of a National Tribunal for Human-Wildlife Conflict

The setting up of a National Tribunal on Human-Wildlife Conflict is one of the most important reforms that India badly needs. Currently, the forest officials deal with disputes that are associated with compensation which, in exceptional instances, goes to state-level appellate committees or the High Courts. This system is not even consistent or fast and there are years of delays in various instances. An

<sup>2063</sup> Walia & Srivastava, Human-Wildlife Conflict and Legal Frameworks in India, 12 ENV'T L. REV. 45 (2024).

<sup>2064</sup> National Green Tribunal Act, No. 19 of 2010, INDIA CODE (2010).

<sup>2065</sup> INDIA CONST. art. 21.

amendment to the Wildlife (Protection) Act, 1972 or as a separate act, a special tribunal may be established, based on the National Green Tribunal or the Motor Accident Claims Tribunals<sup>2066</sup>. A tribunal like this must be given authority not only to listen to claims disputes, delays or failure to pay compensation, but must also have oversight over disbursement mechanisms on the state level. It would turn compensation into an issue of administrative goodwill, as well as allow the creation of a unified jurisprudence, which defines the liability of the State, the rights of impacted communities, and the extent of compensation of human death and injury, damage to crops and livestock.

#### B. Standardization of Compensation Rates

It is also important that the compensation rates are standardized among the states. Currently, the rates of human deaths due to wildlife differ widely: some of the states such as Kerala and Maharashtra compensate up to 10 lakhs, and some of them compensate even less than 50 percent.<sup>2067</sup> A nationally announced minimum compensation level, based on inflation and periodically updated, might be used as a guide that should be adhered to by all the states. The states would be at liberty to give more than the minimum but never less. This would support the principle of equality under Article 14, predictability and fairness by concerned communities, and simplify the litigation process since it would have specific standards against which administrative compliance can be judged.<sup>2068</sup>

#### C. Digitization of Claim Procedures

India needs to create a strong digital platform connected to Aadhaar and Jan Dhan bank accounts that will enable the reporting of the incidence through the mobile phone, GPS tagging of crop losses or animal attacks and monitoring of the status of a claim through the

<sup>2066</sup> National Green Tribunal Act, No. 19 of 2010, INDIA CODE (2010); Motor Vehicles Act, No. 59 of 1988, INDIA CODE (1988).

<sup>2067</sup> Kerala Forest Department, *Compensation for Victims of Wildlife Attacks Guidelines* (2022).

<sup>2068</sup> INDIA CONST. art. 14.

internet. Digitization would not only decrease the delays but also empower the claimants by being updated in real time and no longer have to visit government offices repeatedly. Incorporation with Direct Benefit Transfer systems would mean that the compensation is paid directly to the accounts of the victims and this would eliminate leakages and intermediaries. Bhulekh system of land records and even e-courts of judicial tracking are successful examples to show how digitization can make a difference in the efficiency of administration.<sup>2069</sup> A national extension of such systems may lead to a significant decrease in delays, curtail corruption, and transparency.

#### D. Introduction of Insurance-Based Models

Another avenue is the introduction of insurance schemes to cover human-wildlife conflict compensation especially in the form of a public-private partnership. At this point the financial burden of compensation is almost entirely the burden of the state exchequers that in most cases do not have sufficient budgetary allocation and therefore cause delay or incomplete payment or even denial of the claim. A good comparative case study is the Sri Lanka scheme of insurance of elephant crop: the farmers are required to pay a nominal price, the government subsidizes the major percentage of the price, and the claims are paid within a short time through an insurance scheme.<sup>2070</sup> A similar model can be tested in India on the losses of crops and livestock, but human death and injury remain fully covered by the State. Actuarial assessment is brought about by insurance models and may help prevent the arbitrariness of valuation and establish incentives to preventive action like elephant-proof trenches, community watch groups.

#### E. Community Participation

Human-wildlife conflict should be addressed to on the basis of institutionalization of community involvement in its monitoring and evaluation. Disbursal could be done through joint committees of forest officials, panchayat members and local NGO representatives who can be hired to confirm claims and keep a check on the process. There could also be training of community members on how to use the mobile applications to report an incident in real time instead of depending on the understaffed forest departments. Eventually, this participation raises trust but also develops ownership of conservation activities, which means that there is a low likelihood of carrying out retaliatory killing of elephants, leopards or other species. Engaging communities in designing and reviewing compensation plans on a regular basis will make sure that the policies are sensitive to the local conditions and not those policies that are top-down.<sup>2071</sup>

#### F. Legal Harmonization

Long term reform strategy should entail the harmonization of legal framework of central and state schemes in one coherent system. One way of filling the gap here is a wholesale amendment of the Wildlife (Protection) Act, 1972 or the passing of a new Human-Wildlife Conflict (Compensation and Management) Act.<sup>2072</sup> The appropriate provisions of such legislation include definite lists of categories of losses that are eligible, common guidelines on measuring the losses, and enforceable liabilities on the states to pay compensation within limited time frames. It must also have appellate remedies in front of the suggested National Tribunal. The harmonization would eliminate the ambiguity that victims are in and the compensation would cease being a discretionary act of the administration but rather a right allowed by the law, which can be enforced in court.

<sup>2069</sup> Ministry of Electronics & Info. Tech., *Digital India Land Records Modernization Programme (Bhulekh)* (2016).

<sup>2070</sup> Ministry of Sustainable Development & Wildlife (Sri Lanka), *Human–Elephant Conflict Mitigation Insurance Scheme* (2017).

<sup>2071</sup> World Wildlife Fund–India, *Human–Wildlife Conflict in India: A Review* (2021).

<sup>2072</sup> Wildlife (Protection) Act, No. 53 of 1972, INDIA CODE (1972).

## CONCLUSION

The Human-wildlife conflict compensation in India teaches us of the underlying, and continuous tensions between the demands of conservation and the survival needs of local people. The key to the problem is a paradox: on the one hand, India is praised all over the world as having a well-developed wildlife protection systems and biodiversity hotspots, on the other hand, the policies implemented by the country bring huge expenses to rural families that are cohabiting with wild animals. Families who lose their breadwinners, crops, or livestock to elephant raids, tiger attacks, or other wildlife events, also struggle not only with trauma and economic hardship, but with the agonizing, indolent, and highly arbitrary actions of state-managed relief. The current compensation systems however good-intentioned are not effective enough to accommodate the levels of losses or ambitions of justice to affected people. The skeleton of compensation has been given in the Wildlife (Protection) Act of 1972 and the notifications of the state. These frameworks however are mostly administrative in nature which gives a lot of discretion to the forest officials and state authorities. The compensation is still seen as a form of ex gratia payment as a type of benevolence and not as a statutory right with defined legal procedures to be enforced. Supreme Court and other High Courts have tried to fill this gap by broadening the application of Article 21 and by giving an application connecting the right to life and dignity with the duty of State which provides timely and reasonable compensation. However, even in progressive jurisprudence, there are still problems with the system in the form of delays in confirmation, arbitrary refusal of claims, and inadequate payout sizes. The situation is also made complicated by the differences between states. Kerala or Karnataka a family could get more than ₹10 Lakh in a wildlife related death, and these are usually backed by digitized claim platforms that also facilitate fast processing. Conversely, in other states, like in Jharkhand, Assam, or Madhya Pradesh families can take

months to receive considerably lower amounts of money, and there is often a lack of transparency in the evaluation. These differences are not administrative nuisances; they are on the very core of distributive justice. What is the reason why the value of loss of human life or loss of livelihoods should be different in accordance with the State of residence particularly when wildlife is a national heritage that is maintained to the good of everyone? This imbalance undermines the confidence of the population in conservation authorities, creating bitterness among the victims and decreasing the willingness to live with wildlife. Such alienation can in the long run jeopardize the biodiversity protection objectives. There is therefore an urgent necessity to change to a proper rights-based model of compensation no longer viewing relief as charity but rather a moral right which arises as a result of the constitutional obligation of the State in Art 21 and the doctrine of the public trust. This can be achieved by the establishment of adjudicatory bodies specifically in human-wildlife conflict, i. e. quasi-judicial tribunals, which can offer speed, accountability, and transparency, as did the Motor Accident Claims Tribunals in India, which transformed road accident compensation. Digitization should also receive the prime place in reform: an increase in online portals and mobile apps on a national scale could radically decrease the amount of delays, limit corruption, and increase transparency. Combined with time-constrained disbursement requirements, digitization may guarantee that restitution is received by the victims within weeks, as opposed to months, addressing the short-term financial tremors commonly causing the family in debt or despair migration. The fusion between the models based on insurance and community involvement in conflict supervision are additional promising routes. The compensation should not be viewed separately but as a component of the bigger conflict mitigation process that integrates relief with prevention. Lastly, the discussion of

compensation has to take place within the framework of environmental justice. Human wildlife interaction is skewed in disadvantaged communities which inhabit forest borders, such as tribal communities, small scale farmers and landless workers. To them compensation is not so much a question of financial reprieve, but it is a question of acknowledgment, respect and being a part of the conservation process. Overall, the future of human-wildlife conflict management in India is seen in changing compensation towards an inconsistent, ad hoc administrative system to an enforceable, predictable and transparent right. A combination of standardization between states, special tribunals, electronics claim systems, market-linked valuation systems, as well as insurance-based systems can all lead to a robust and equitable compensation architecture. This type of framework will not only provide justice to those who are the victimized but also give hope back to conservation which will in turn create long-term social legitimacy of coexisting between human beings and wildlife. After all, the effectiveness of India in dealing with human-wildlife conflict will not be determined by how many animals are preserved, but whether its laws and policies can make the cost of conservation an equitable and a dignified process and a fair and just one to all.

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