



To,
Mr. Jairam Ramesh,
Member of Parliament, Rajya Sabha,
Indian National Congress, New Delhi

October 29th, 2022

Dear Sir,

Subject: Wild Life (Protection) Amendment Bill, 2022 regularizing capture, cruelty and commercialization of wild caught and privately held elephants

We are a group of animal welfare organisations working for the protection of elephants in captivity.

As an esteemed member of the august upper house of the Parliament, you will be called upon to review, discuss and vote on the Wild Life (Protection) Amendment Bill 2022, in the upcoming Winter Session 2022.

While the amendment is largely designed in line with the spirit of the Wild Life (Protection) Act, 1972 (hereinafter the Act) to end illegal trade in wild animals by making the Act more compliant with CITES (the Convention on International Trade in Endangered Species of Wild Fauna and Flora), *it has a curious provision to the contrary, a proposed amendment to section 43, to create an exception for transfer (of ownership) for privately held elephants that could encourage capture and hunting of elephants from the wild.*¹

The intended proviso in the Wild Life (Protection) Amendment Bill, 2022, if passed, will result in the following complete reading of section 43:

Regulation of transfer of animal, etc.— (1) No person having in his possession a captive animal, animal article, trophy, or uncured trophy in respect of which he has a certificate of ownership shall transfer by way of sale or offer for sale or by any other mode of consideration of commercial nature, such animal or article or trophy or uncured trophy.

¹ Discussion Paper on Captive Elephants, Vidhi Legal Policy, 2022

(2) Where a person transfers or transports from the State in which he resides to another State or acquires by transfer from outside the State, any such animal, animal article, trophy or uncured trophy in respect of which he has a certificate of ownership, he shall, within thirty days of the transfer or transport, report the transfer or transport to the Chief Wildlife Warden.

“Provided that the transfer or transport of a captive elephant for a religious or any other purpose by a person having a valid certificate of ownership shall be subject to such terms and conditions as may be prescribed by the Central Government.”

The proviso will create a **special exception** for **transfer** of ownership of elephants, from one owner to another for **religious** and **any other purpose**. This is a regressive step.

“Transfer of a captive elephant,” as mentioned in the proviso above, is usually done through donating or gifting. which have always, in a majority of cases, been euphemisms for commercial sale. Hence allowing transfer under section 43(2) is tantamount to a wildlife crime, against the larger purpose of the said amendment and the law itself.

Any new amendment to the law must continue existing government policy of phasing out private captivity and commercial use of elephants. Elephants are the only wild animals allowed to be owned through an exception in section 40 of the WPA. This is contrary to both the tenets of the Wildlife Act and the Constitution of India. It is also contrary to the growing recognition that elephants are complex sentient beings with a strong sense of themselves as free, wild animals who belong in the Wild. Indian Courts have recognised that animals also have dignity and must be treated with equal consideration.

The need of the hour is to amend section 40 to remove the exception of private ownership of elephants and not to strengthen the exception. Instead the impugned proviso encourages cruel **captivity** of elephants for commercial gains, causing elephants immeasurable **cruelty**, suffering, and pain

A. Captivity

After 50 years of the Act, elephants remain the only wild animal captured, tortured, traded and used for commercial gains – because of the legal sanction of private ownership.

To call elephants domesticated is unscientific. We quote from a recent report:

“But elephants are not domesticated. They have never undergone the process of ‘domestication’: a long-term socio- biological process. Although discussions continue on the exact definition of

domestication, it is commonly agreed that domestication can only involve human-guided, selective breeding for no fewer than a dozen generations.”²

Their captivity does not take away their status as a protected Schedule I, Wild Animal. A large majority of elephants in private captivity in India are sourced via illegal capture from the North East, mainly Assam and Arunachal. Data submitted by the Kerala Forest Department in the Supreme Court in 2016 estimates that 90% of the privately held elephants in Kerala have been sourced from Assam and Arunachal.

Recently, the case of repeated abuse of elephant Joymala in Tamil Nadu has revealed that as many as 320 elephants have been “transferred” from Assam in the last 10 years, under short term leases that have never been returned.³ A lease is also a commercial transaction, in breach of s. 43.

Private captivity of wild elephants cannot function without their illegal capture and trade, both of which will increase with the passage of this amendment.

B. Cruelty

The captured elephants, often young, are put through torturous training methods and then transported to different ends of the country as commodities, condemned to a lifetime of slavery and bonded labour.

The training involves placing the elephant with chains in an enclosure called the *kraal* for prolonged periods, wherein they are repeatedly beaten with a rod called the *valiyakol*, starved and forced to obey commands in fear of punishment with the sharp pointed weapon (*ankush*).

The injuries, the isolation, the incarceration, the constant beating, and the domination of the trainer over the elephant – are all done to break the mind, the body, and the will of the elephant. This entire method practised particularly by mahouts in Kerala and Tamil Nadu is called *kettiyazhikkal*.

The spirit of the wild elephant is thus broken, causing immense psychological trauma and behavioural problems leading often to fatal consequences.

² *Taken for a Ride*, report on the use of elephants in tourism by World Animal Protection, 2020

³ <https://scroll.in/article/1016272/indias-elephants-will-suffer-huge-setback-if-proposed-changes-to-wildlife-protection-act-are-passed>

In Kerala alone, there are over 130 documented deaths of private captive elephants since 2018. *This is an average of three elephants dying every month!*

Forest departments across India are overloaded with cases of abused elephants with limited opportunities for their rehabilitation, not to mention prolonged court battles to gain custody. As many 300 captive elephants are in rescue centres across India, with many more waiting to be rescued. Increasing pathways for private captivity of elephants will only strain an already burdened system.

C. Commodification: Why are we subjecting elephants to such cruelty?

While it is argued that captive elephants are a part of our religious and cultural heritage, this practice does not have deep historical roots and is not an essential part of any Indian religion.

A vast majority of captive elephants are owned by private individuals who buy them at a very high market rate, and use them for commercial purposes like renting them for weddings, rides, movies and as live display for private events and functions, which may include parades and processions of all types.

As per a 2019 Economic Times report an elephant is rented out for an average of Rs. 2.5 lakhs per day during the Pooram Festival in Kerala.⁴ It is estimated that across the season renting of elephants for parades generates a revenue of anywhere from Rs. 1-1.5 crores per elephant, and with more than 400 male tuskeders constantly at work during Pooram, the macro revenue figures are in the range of Rs. 500-600 crores. This scale of commercialisation and profiteering makes it impossible to ensure the welfare of elephants despite rules, court orders and regular strictures from the Forest Department.

When we consider the proposed amendment to the Wild Life (Protection) Amendment Bill, 2022 we must ask the following questions: *Why are we allowing the transfer of captive elephants, when we know that this opens the road to the capture of elephants from the wild?*

This option will not only allow religious institutions and private individuals to acquire fresh elephants from traders/capturers but also be able to monetise and further transfer elephants to other interested buyers. The above concern, read with “any other purpose” in the amendment, appears to have been added to continue both commercial trade and commercial use of elephants contrary to the purpose of the wildlife Act.

⁴ <https://economictimes.indiatimes.com/news/politics-and-nation/what-makes-temple-elephants-so-popular-in-kerala/articleshow/69389799.cms?from=mdr>

“Protection of Wild Animals” is the prime purpose of the Wildlife Protection Act, 1972 enshrined both in its preamble and reiterated in Article 48A of the Constitution. The amendment disregards and deviates from this statutory and constitutional duty.

Today we have enormous documented evidence that private captivity is nothing short of a form of torture for elephants and illegal wildlife trade. By continuing the exception of elephant ownership, and encouraging their trade *through transfers*, we are disregarding all of that evidence.

We kindly request you to speak up for the elephants:

1. **Ask** for the bill to be re-examined by sending it back to the Lok Sabha.
2. **Demand** that the government present a firm plan, consistent with past policy, to demonstrate that private ownership of elephants will be phased out, in a timely manner.
3. Before the bill is tabled please **Write** to the Ministry of Environment, Forest and Climate Change and amplify the threat to elephants.

We kindly request you to provide us with an appointment, for a delegation of not more than two representative members, to present our concerns in person. For any further information, we can be contacted on the following coordinates: alokcraar2021@gmail.com and +91-9619292036.

Warm Regards,

Norma Alvares, People for Animals, Goa

Suparna Baksi Ganguly, Wildlife Rescue and Rehabilitation Centre, Karnataka

VK Venkitachalam, Heritage Animal Task Force, Kerala

Bharati Ramachandran, Federation of Indian Animal Protection Organisations

Khushboo Gupta, PETA-India

Mubina Akhtar, Kaziranga Wildlife Society, Assam

Shubhobroto Ghosh, World Animal Protection, India

Radhika Bose, Cape Foundation, West Bengal

Prakash Sasha, Elsa Foundation

Nikita Dhawan, Youth For Animals

Vivek Viswanath, Walking Eye Foundation for Animal Advocacy, Kerala

Sagnik Sengupta, Sage Foundation, West Bengal

Alok Hisarwala Gupta, Centre for Research on Animal Rights