

BRIDGING JUSTICE GAPS: LEGAL AID FOR RURAL COMMUNITIES AFFECTED BY WILDLIFE CRIME NETWORKS IN INDIA

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Indian rural communities are facing many obstacles with regards to managing wildlife crime and treating injustices that result when wildlife crime is committed in rural communities. The proximity of rural communities to forests often leads many to be subjected to wildlife traffickers; these rural residents are also limited in their ability to access legal services due to systematic inequality and lack of transparency with regard to the legal process. In this paper, analysis of the legal structure and institutional frameworks providing legal support to rural communities will be conducted and the limitations of the ability of rural communities to seek and obtain legal support will be identified. This paper will support the establishment of an inclusive, cooperative method for providing legal aid that includes the participation of the community and demonstrates cultural sensitivity.

Introduction

Wildlife trafficking has grown into an alarming global problem, particularly within South Asia. Because of India's ecological diversity, this region is a major hub for exporters who illegally export wildlife resources to be sold on the international market. Discussions of wildlife trafficking often focus on negative impacts to the ecology and economy, but fail to consider how these crimes are impacting rural communities living nearest to the areas where wildlife traffickers operate. In many rural communities, villagers may become involved in illicit wildlife trafficking networks as a result of severe economic stress, or may be wrongly arrested during "sweep" operations conducted by law enforcement agencies and may be subject to harassment, unlawful seizures, and threats by law enforcement officers.

To ensure that rural communities receive culturally-appropriate and accountable resources and assistance with wildlife law violations, rural communities in India must have reliable access to resources that provide information on potential legal remedies. However, existing data shows that rural citizens have significantly less access to wildlife-oriented legal assistance compared with access to all other types of criminal justice system services. Therefore, rural communities' ability to access legal assistance for wildlife-related crimes can be viewed within the framework of the broader social and economic inequities created by the state, as well as the repetitive, bureaucratic nature of the criminal justice system, and the ways in which rural communities utilize community-based forms of justice.

The Legal Landscape

Wildlife (Protection) Act, 1972 is India's primary wildlife protection law which was enacted to protect all endangered wildlife species by regulating hunting, preventing wildlife trafficking through the control of illegal hunting and establishing significant punishments for wildlife crimes; it is enforced primarily by State Forest

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Departments, but also by other government agencies including Wildlife Crime Control Bureau as well as local law enforcement agencies. Legal Services Authorities Act, 1987 provides for the establishment of various levels or tiers of Access to Justice for low-income individuals unable to obtain Legal Aid as a result of financial constraints through the establishment of Legal Aid Institutions. The interaction between the Wildlife Protection Act and the Legal Services Authority is weak and has not been well-defined. Wildlife cases often fall through the 'crack' of the Legal Services Authority system as law enforcement personnel who enforce the Wildlife Protection Act in rural areas do not routinely utilize Legal Aid Services to initiate or process criminal charges. Therefore, these barriers create significant challenges for many rural defendants, who depend on rural forests for economic support¹.

Rural Vulnerability and Wildlife Crime

The connection between culture, reliance on the surrounding environment, and closeness to forests has affected how the Rural Communities in India relate to Wildlife; however, the Impact of Wildlife Trafficking is great for these communities as they are at risk due to their limited financial means and closeness to these forests. The Wildlife Traffickers utilize the community's economic condition and lack of access to support systems to enlist them as either collectors of Animal Products or assist in the Trafficking of Wildlife. Additionally, community members may be wrongfully accused or coerced into confessing to crimes they did not commit during law enforcement operations to stop Wildlife Traffickers. Mistrust for Forest Officials has been long-standing due to conflicts related to Natural Resource and Land Use Rights and as a result many of those Accused of engaging in Wildlife Trafficking are too fearful or unprepared to utilize their Legal Rights².

Barriers to Legal Aid

The reasons for limited access to legal aid in wildlife crime matters are varied and mutually reinforcing. Many rural areas do not have enough staff or have closed down their legal services clinics due to poor contact between the public and the legal profession to handle wildlife-related legal problems. As such, most proceedings by the Forest Department are untransparent because there is little access to representation for those who were arrested by these departments³. Additionally, many tribal communities face significant challenges to their participation because of cultural and language barriers, which therefore limit their engagement in these proceedings. Furthermore, community

members are often forced to put money toward the bail required for their release because of the instability of their livelihoods, along with the stigma associated with an accusation. Due to the authority that these officials wield, people do not feel confident about exercising their rights or contesting any wrongdoing by the Forest Department due to fear of being retaliated against by these officials⁴.

Institutional and Community Responses

There are still many challenges, but Innovative work is currently being done and things are getting better and more interesting. In several forest fringe locations mobile legal aid clinics are being made available in addition to civil society organizations and tribal members acting as paralegals have bridged cultural gaps in many instances. In several situations the forest department works with DLSAs to create greater transparency within their operations. The Forest Rights Act has established a partnership with participatory governance by promoting fair legal processes.

Discussion

The two main challenges surrounding the legal environment and the idea of state legitimacy pertain to two main areas: The concept of Wildlife Crime and the role of Rural Law in a rural environment. The concept of Wildlife Crime raises many questions regarding who has the legal authority and who has the accountability to protect the environment and, at the same time, also causes confusion in terms of how to access justice for rural residents who are typically perceived as both protectors of the environment and offenders of crime. The enforcement profession's emphasis on conviction creates an environment where there is a potential for wrongful conviction due to a lack of procedural fairness. The nature of the adversary system of the Indian legal system provides a further challenge for rural residents by creating an environment in which they are unable to adequately access appropriate legal representation; therefore, traditional methods of obtaining justice will be more culturally relevant in rural communities, whereas the formal systems and procedures will appear complex and difficult to navigate for these communities⁵.

Conclusion

The existing gap in the justice system, inflicted by wildlife crime in remote communities, cannot be closed overnight simply by remodelling existing processes. It will also take an exhaustive re-assessment of the relationship between conservation agencies and local governments to

begin to bridge this gap. Conservation Law enforcement must not only provide legal aid to rural residents but also create a level of trust between conservation law enforcement and rural residents, as well as giving rural residents equitable access to local courts. To be effective in bridging the justice gap, legal aid services must include access to local legal aid offices in small, outlying communities that are often located in very remote forest areas, culturally aware paralegals to help prepare for and represent cases in court, and transparent timelines for the receipt of services offered through local legal aid offices. Ultimately, the success of conservation efforts will depend not just on how effectively conservation ensures the survival of species, but how well conservation advocates

respect the rights and dignity of those living in close proximity to these species. □

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