Wild Life (Protection) Amendment Bill 2021

Why in news?

The expeditious passage of the Wild Life (Protection) Amendment Bill, 2021 in the Rajya Sabha this winter session needs comment.

What is the amendment about?

- The Wildlife Protection Act (WPA) 1972 has safeguarded numerous species of wild animals and plants by
    1. Prohibiting all forms of hunting and,
    2. Creating inviolate areas where wildlife conservation may be carried out.
- The amendment further invests in this conception of protected areas and species by bringing in newer species to be protected, augmenting the penal repercussions.
- The aspects of protecting species from the wildlife trade, in line with international standards, have received thoughtful scrutiny by civil society, MPs and the Parliamentary Standing Committee.
- But, the impact of the criminal legal framework adopted by the WPA is less known.

What is the need for criminal laws in wildlife conservation?

- The need for criminal laws to assist wildlife conservation has remained unchallenged since its conception.
- The State and Forest Department control over forests won't have been possible without criminal law. This is seen in the provisions like,
    1. Regulated hunting to complete prohibition and
    2. The creation of 'Protected Areas (PA)' where conservation can be undertaken without the interference of local forest-dwelling communities,
- In this context, pitting wildlife species against communities as human-animal conflict has eluded the true cost of criminalisation under the WPA.
- **Penalty** - The WPA Amendment Act has made a move to increase penalties for general violations from ₹25,000 to ₹1,00,000, and for animals receiving the most protection from ₹10,000 to ₹25,000.
- This move should raise questions about the nature of policing that the WPA engenders.

What does the Study by CPA reveal?

- A study by the Criminal Justice and Police Accountability (CPA) Project examined arrest records, FIRs, offence records of the police and Forest Department in Madhya Pradesh.
- It was found that persons from oppressed caste communities such as Scheduled Tribes and other forest-dwelling communities form the majority of accused persons in wildlife-related crimes.

- The Forest Department was found to
    1. Use the threat of criminalisation to force cooperation, and
    2. Devise a system of using community members as informants and draw on their loyalty by employing them on a daily wage basis.
- Cases that were filed under the WPA did not pertain solely to the comparatively serious offence of hunting; collecting wood, honey, and even mushrooms formed the bulk of prosecution in PAs.
- Over 95% of the cases filed by the Forest Department are still pending.

What is the relationship between WPA and FRA?

- Forest rights, individual and collective, as part of the Forest Rights Act (FRA) were put in place to correct the injustice meted out by forest governance laws in recognising forest-dependent livelihoods.
- The natural overlap of recognising forest rights in intended-as-inviolate PAs was quickly resolved by making the **FRA subservient to the WPA**, thereby impeding its implementation.
- In the field work carried out, it was noticed that while individual forest rights in buffer zones of the Kanha National Park of Madhya Pradesh were recognized.
- But, the same cannot be said of collective rights over usage of forest resources, fishing, and protecting forest resources.
- Fishing, which forms an important part of subsistence for tribal communities, has come to be regularly criminalised as part of the WPA.
- In cases recorded by the Forest Department, the very fact that these occurred in PAs led to the offence becoming punishable by 3 to 7 years.

What is worrisome?

- Criminal cases filed by the department are rarely compounded since they are meant to create a ‘deterrent effect’ by instilling fear in communities.
- Fear is a crucial way in which the department mediates governance in protected areas, and its officials are rarely checked for their power.
- **Unchecked discretionary policing** allowed by the WPA and other forest legislations have stunted the emancipatory potential of the FRA.
- Any further amendments must take stock of wrongful cases and resultant criminalisation of rights and lives of forest dwelling communities.

Reference

1. The Hindu | A conservation Bill that endangers forest rights

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