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THE FREEDOM TO FLY: AN ANALYTICAL STUDY OF LEGAL RESPONSES TO BIRD CONSERVATION IN INDIA

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Abstract

Birds maintain biodiversity and contribute significantly in balancing ecological environment through different ways. Despite this significance, bird species often face various threats. These threats of illegal trade, inefficient implementation of laws and others challenges have severely affected bird populations. This paper examines the history of bird laws in India. It discusses the present legal framework, constitutional provisions and judicial decisions relating to birds. It highlights the challenges that create hindrances in bird conservation and emphasizes the need for effective law enforcement, habitat protection, community sensitization and formal measures to ensure the survival including well-being of bird species.

Keywords: Birds, Conservation, Legal Protection, Biodiversity, Wildlife Law.

I. Introduction

Wildlife is an integral part of our ecosystem as animals occupy different trophic levels with humans at the top of the food chain.¹ Among them, birds constitute a significant component. Birds contribute significantly to ecological balance and human well-being.² They serve as important indicators of environmental health. Their presence serves as an indicator of ecosystem health and contributes significantly to the sustainability of nature and the preservation of other species on Earth. However, over the last 2,000 years, numerous animal and bird species have become extinct.³ Recent studies indicate that nearly 48% of the world's bird species are experiencing population declines, whereas only 6% exhibit increasing population trends.⁴ India is recognised as a nation endowed with remarkable biological diversity, possessing a wide range of ecological environments that support rich faunal diversity,

¹ Shristi Choudhary, "The Wildlife (Protection) Act, 1972: A Comprehensive Study on Wildlife Conservation in India" (May 1, 2024), available at: <https://ssrn.com/abstract=4848859> (last visited June 16, 2026), at 1.

² *Id.*

³ Kuldeep Mishra, "A Review Study on Wildlife Conservation in India," 11(8) *IJFANS International Journal of Food and Nutritional Sciences* 2625, 2626 (2022).

⁴ Alexander C. Lees et al., "State of the World's Birds," 47 *Annual Review of Environment and Resources* 231, 236 (2022).

including numerous bird species. However, this invaluable biodiversity is increasingly threatened by ecological settings, illegal hunting, unlawful business of bird species, climatic variations and other anthropogenic pressures.⁵

India is home to remarkable bird diversity, with nearly 2,000 bird species distributed across its forests, wetlands, grasslands deserts and coastal ecosystems, positioning it among the earth's richest regions for birdlife.⁶ India has also undertaken systematic assessments of its bird populations through the *State of India's Birds 2020* report.⁷ It evaluated 867 bird species and identified 101 bird kinds, as being facing critical conservation challenges. It highlights the urgent need for strengthened conservation measures. The latest nationwide assessment conducted in 2023 reveals a concerning trend in India's bird biodiversity. Of the 338 bird species for which long-term population trends could be determined, 204 species were found to be declining, including 98 species experiencing rapid declines.⁸ In contrast, 98 species remained stable, whereas only 36 species exhibited increasing population trends.⁹ These findings indicate that a significant proportion of India's bird species are undergoing population declines. Consequently, India faces numerous challenges in ensuring the effective conservation and protection of birds.¹⁰

The ongoing decline and extinction of bird species may have serious adverse consequences for essential ecosystem functions and the ecological services that underpin human well-being and environmental sustainability.¹¹ It underscores the urgent need for effective conservation measures, habitat protection and the stronger enforcement of wildlife laws. This paper examines the Indian legal framework regulating the conservation and safeguarding of birds. It analyses the historical development of bird protection laws, constitutional provisions, statutory safeguards, judicial pronouncements and international commitments aimed at conserving bird biodiversity and protecting bird populations. The paper further explores contemporary

⁵ Anil Kumar, "Legal Frameworks for Wildlife Conservation in India: Challenges and Solutions," 4(1) *International Journal of Civil Law and Legal Research* 212, 212 (2024).

⁶ Atendri Devi and Archana Sharma, "Legal Framework for Forest and Wildlife Conservation in India: A Case Study of Rajasthan," 10(6s) *International Journal of Environmental Sciences* 773, 774 (2024).

⁷ *State of India's Birds Partnership, State of India's Birds 2023: Range, Trends and Conservation Status* 3 (The SolB Partnership, 2023).

⁸ *id.* at Table 3 (Trend in Abundance Index).

⁹ *Id.*

¹⁰ Aakash Sharma, "Animal Protection Laws and Challenges in India," 4(1) *National Journal of Environmental Law* 28, 28 (2021).

¹¹ Çağan H. Şekercioğlu *et al.*, "Ecosystem Consequences of Bird Declines," 101 *Proceedings of the National Academy of Sciences of the United States of America* 18042, 18044 (2004).

challenges affecting bird conservation. Finally, it proposes measures to strengthen legal and policy frameworks to secure the continued existence and protection of these important bird species.

2. Main Causes of Bird Extinction and Population Decline

- i. *Habitat Loss and Fragmentation*: Habitat loss and fragmentation, caused by rapid urbanization, deforestation, agricultural expansion and other unsustainable land-use practices, remain among the most serious threats to bird populations worldwide.¹²
- ii. *Deforestation and Land-Use Change*: The alteration of natural forests into farming, urban and other modified landscapes is a major driver of bird population decline.¹³
- iii. *Climate change*: Climate change is increasingly affecting bird populations by disrupting migration routes, breeding cycles and food availability. These changes threaten bird survival and population stability particularly among species with limited adaptive capacity and specialized feeding requirements.¹⁴
- iv. *Pollution*: Various forms of pollution, especially air pollution, due to their high respiratory rates and sensitivity to environmental contaminants. Long-term exposure may result in respiratory disorders, reproductive impairments, reduced offspring survival and population decline, thereby adversely affecting biodiversity and ecosystem health effecting birds.¹⁵
- v. *Illegal hunting and wildlife trade*: Illegal bird trade remains a serious concern in India, where numerous birds are unlawfully captured, confined and traded despite legal prohibitions. Although the trapping and trade of indigenous wild birds were banned in 1990–91, these illicit activities continue to persist.¹⁶
- vi. *Urbanisation*: Research indicates that urban development has contributed to the decline of nearly 50% of bird species, posing significant challenges to ecological balance, biodiversity conservation and sustainable development.¹⁷

¹² *State of India's Birds 2023*, supra note 7, at 2.

¹³ Ghazala Shahabuddin *et al.*, "Decline in Forest Bird Species and Guilds Due to Land Use Change in the Western Himalaya," *25 Global Ecology and Conservation* e01447, 11 (2021).

¹⁴ Cynthia Carey, "The Impacts of Climate Change on the Annual Cycles of Birds," *364 Philosophical Transactions of the Royal Society B* 3321, 3328 (2009).

¹⁵ Dan Alters, "The Effects of Pollution on Birds," *Pennsylvania Society for Ornithology*, available at: <https://www.pabirds.org/Articles/Pollution.html> (last visited June 10, 2026).

¹⁶ Roohi Narula, "Large Scale Illegal Trade of Birds Exposed in New Delhi," *Wildlife SOS News* (Aug. 21, 2025), available at: <https://wildlifesos.org/chronological-news/large-scale-illegal-trade-of-birds-exposed-in-new-delhi/> (last visited June 10, 2026).

¹⁷ Bráulio A. Santos *et al.*, "Impacts of Urbanization on Multiple Dimensions of Bird Diversity in Atlantic Forest Landscapes," *54 Global Ecology and Conservation* e03078, 1 (2024).

- vii. *Industrialisation*: Exposure to industrial pollution may reduce microbial diversity and increase the prevalence of pathogenic microorganisms, thereby adversely affect bird's health, ecological fitness and long-term survival.¹⁸
- viii. *Wetland destruction*: Wetland degradation poses a significant threat to birds, by diminishing the availability of suitable breeding, feeding and migratory habitats, thereby adversely affecting their survival and population stability.¹⁹
- ix. *Power lines and wind turbine collisions*: Windmills and power lines near important bird habitats can harm birds through collisions, electrocution and habitat disturbance.²⁰
- x. *Invasive alien species*: Invasive plants can make habitats less suitable for birds by replacing native plants, reducing the quality of food available and disturbing the natural balance of the ecosystem.²¹
- xi. *Human disturbance and encroachment*: Human disturbance can negatively affect bird behaviour and populations. Therefore, proper management and conservation measures are needed to ensure the peaceful coexistence of humans and wild birds.²²
- xii. *Agricultural intensification and pesticide use*: Agricultural pesticides can seriously harm birds, including many endangered species and it contributed to a significant decline in farmland bird populations over the last three decades.²³

India has a rich diversity of bird species. It is not immune to these challenges. The declining populations of several bird species have raised serious concerns about the effectiveness of existing conservation measures and the adequacy of the legal framework which is designed to protect them.

3. Historical Development of Bird Protection Laws in India

The history of bird protection in India reflects a gradual transition from the cultural and religious traditions of ancient times, which emphasized respect for wildlife, to modern legal

¹⁸ Midog Test, "The Impact of Living Near Industrial Areas on Bird Microbial Health," available at: <https://www.midogtest.com/blog/the-impact-of-living-near-industrial-areas-on-bird-microbial-health/> (last visited June 11, 2026).

¹⁹ Samiksha Santosh Kale, "Wetland Degradation and Its Environmental Consequences," 12(9) *International Journal of Innovative Research in Technology (IJIRT)* 216, 218 (2026), DOI: 10.64643/IJIRT1219-195753-459.

²⁰ Akshit R. Suthar *et al.*, "Impact of Windmills and Power Lines on Birds: A Case Study at Porbandar Taluka, Gujarat-India," 4(3) *International Journal of Fauna and Biological Studies* 93, 93 (2017)

²¹ Binod Bhattarai *et al.*, "Effects of Invasive Alien Plants and Habitat Structure on Bird Assemblages in a Unique Lowland Forest in Eastern Nepal," 32(2) *Ornis Hungarica* 1, 3 (2024).

²² Megan Price, "The Impact of Human Disturbance on Birds: A Selective Review," 34 *Australian Zoologist* 163, 172 (2008).

²³ Markus Saerimam Nzunde *et al.*, "Effects of Farming Intensification on bird Species Richness and Abundance within Jos Metropolis, Nigeria," 24(2) *World Journal of Advanced Research and Reviews* 618, 619 (2024).

frameworks dedicated to conservation. The Mughal and British periods influenced the development of wildlife governance, while post-independence legislation significantly strengthened the protection of birds and their habitats. In ancient times, birds, like other animals, were occasionally subjected to legal proceedings similar to those applied to human beings. With the development of the natural rights theories advanced by Hobbes, Locke and Rousseau, greater emphasis was placed on the distinction between rights-bearing subjects and objects. Nevertheless, legal rights and their enforcement remained largely confined to human beings, while animals continued to be treated primarily as objects of law rather than as holders of rights.²⁴ During this period in India, birds were often associated with deities, texts and folk stories like the *Panchatantra* and *Jataka Tales*.²⁵

The Vedic period has also witnessed the conservation of birds, as various Dharmashastras, Vedas, Smritis, etc., emphasized the importance of birds as a bond between nature and humans.²⁶ In the conservation of birds, the Mauryan rulers also played a significant role by reserving forests and restricting the killing of animals and birds in any form.²⁷ Rulers like Ashoka and Kautilya also enacted conservation laws, preserved various areas as sanctuaries and imposed penalties for violations of these laws.²⁸ During the Mughal period, emperors such as Akbar, Jahangir and Shah Jahan considered the hunting of birds (as part of wildlife) a sport. Despite this hunting culture, some Mughal rulers made efforts toward the establishment of reserved areas, hunting grounds and gardens. This era reflected a mixture of both cruelty toward and preservation of birds.²⁹ Prior to the British era, bird conservation and preservation were largely regarded as moral, cultural and regulatory responsibilities, reflecting the close relationship between humans, nature and wildlife in Indian society.³⁰

Initially, during the British era, hunting was widely practiced in a severe and indiscriminate manner as a sport, a commercial activity and as means of expanding the jurisdiction of British rule. It was further encouraged through a reward system introduced by the government for

²⁴ Vanshika Thakur, "Arguments for Animal Rights: Prohibiting Animal Sacrifice as a Form of Cruelty," 1 *HPNLU Law Journal* 35, 36 (2020).

²⁵ M. Velmurugan, "Historical Development of Wildlife Protection in India," 2(2) *International Journal of Current Research and Modern Education* 386, 386 (2017).

²⁶ Siddharth Rajak and Kalpana Chatruvedi, "The Evolution of Wildlife Protection Laws and Policies in India: A Historical Analysis," 8(5) *International Journal of Novel Research and Development* a354, a355 (2023).

²⁷ *Id.*

²⁸ Velmurugan, *supra* note 25, at 387.

²⁹ *Id.* at 388.

³⁰ Rajak and Chatruvedi, *supra* note 26, at a355.

hunting birds (as part of wildlife).³¹ During the British era, the inception of the Forest Department in 1864 and the formulation of the Indian Forest Act, 1865 marked the beginning of organized conservation efforts in India. Although these measures were primarily focused on forest resources, they indirectly contributed to the protection of birds by preserving forests and natural habitats that served as important nesting, breeding and feeding grounds for numerous bird species. Thus, the British period laid the foundation for the conservation of bird habitats in India.³² Later, various laws were introduced by the British Government for the conservation of birds. In 1936, India established its first national park, Hailey National Park, as a step toward the conservation of birds and wildlife.

Although the British Government undertook several measures for bird conservation, these efforts were largely influenced by its administrative priorities and hunting interests. Nevertheless, they laid a strong foundation for the conservation laws and policies that exist in India today.³³ Even after Independence, the condition of bird populations did not improve substantially. Habitat destruction, illegal trade, human encroachment into natural ecosystems and hunting continued to threaten bird species across the country. Acknowledging the pressing need to conserve the bird species under the umbrella of wider concept of wildlife, the Government has introduced various legislative measures and established sanctuaries and protected areas for the preservation of biodiversity.

4. Legislative Measures

India has enacted number of legislative measures that directly or indirectly contribute to the protection and conservation of birds. These laws address various aspects of bird conservation, including the protection of bird species, safeguarding their habitats, regulation of trade, prevention of cruelty and conservation of biodiversity. Together, these statutory provisions form the legal framework for safeguarding bird species and maintaining ecological balance. The beginning of organized wildlife laws in India was marked by the introduction of the Indian Forest Act, 1865, which indirectly contributed to the protection of bird habitats. The Indian Forest Act, 1878,³⁴ further strengthened State control over forests, thereby aiding habitat conservation.

³¹ Velmurugan, *supra* note 25, at 388–389.

³² Devi and Sharma, *supra* note 6, at 775.

³³ Rajak and Chatruvedi, *supra* note 26, at a356–a357.

³⁴ The Indian Forest Act, 1878.

The first bird-specific legislation in India was introduced through the Wild Birds Protection Act, 1887.³⁵ It was enacted to protect wild birds from hunting during critical periods such as the breeding season. After that, the Wild Birds and Animals Protection Act, 1912,³⁶ came into force. It regulated the capture and killing of wild birds and animals. Although these early enactments were later repealed, they make a road map for the development of modern wildlife conservation framework in India. Section 13 of the Public Gambling Act, 1867,³⁷ prohibits the practice of setting birds or animals to fight in public streets, places or thorough fares and imposes penalties on persons who organize, participate in or facilitate such activities. This provision plays an important role in bird welfare by preventing cruelty associated with cockfighting and other forms of bird fighting conducted for entertainment, sport or gambling purposes.

Although the Indian Forest Act, 1927,³⁸ does not specifically mention birds, provisions relating to 'reserved forests' and 'protected forests' under Sections 3, 20, 21, 29, 33 and 35 play a significant role in conserving bird habitats. These provisions restrict activities such as deforestation, encroachment and illegal exploitation of forest resources, thereby protecting the ecosystems on which many bird species depend. The 42nd Amendment of Constitution, in the year 1976, had introduced Articles 48A and 51A(g) for environmental and wildlife protection and placed wild areas as well as the safeguarding of wild birds in the Concurrent List, thereby strengthening constitutional framework for bird conservation.³⁹ Originally, forests and wildlife fell within the legislative area of the States. However, this Amendment had transferred forests and the safeguarding of wild birds to the Concurrent List.⁴⁰ The Constitution of India strengthens bird conservation by empowering both the Central and State Governments under concurrent list, to enact and implement laws for bird's protection, welfare and conservation.⁴¹ The Prevention of Cruelty to Animals Act, 1960,⁴² aids in the protection of birds, as it prohibits various forms of cruelty under Section 11, including neglect, cruel treatment, inhumane

³⁵ The Wild Birds Protection Act, 1887 (Act No. 10 of 1887).

³⁶ The Wild Birds and Animals Protection Act, 1912 (Act No. 8 of 1912).

³⁷ The Public Gambling Act, 1867, s. 13.

³⁸ The Indian Forest Act, 1927 (Act No. 16 of 1927).

³⁹ Chandreshwari Minhas, "Towards Humane Justice: A Critical Appraisal of India's Animal Welfare Laws," 4(10) *International Journal of Research in Academic World* 23, 24 (2025).

⁴⁰ G. Kavya Reddy, "An Overview of Wildlife Conservation in India," 2(7) *International Journal for Legal Research and Analysis* 5, 6 (2023).

⁴¹ Anubhav Jain and Vidhi Surana, "Prevention on Cruelty on Animals and Their Rights," 3(1) *Vishwakarma University Law Journal* 1, 6 (2023)

⁴² The Prevention of Cruelty to Animals Act, 1960 (Act No. 59 of 1960).

transportation and improper confinement. It safeguards domestic birds and seeks to stop unwanted cruelty and harassment.⁴³ *The Wild Life (Protection) Act, 1972*,⁴⁴ has created a precious milestone in bird's conservation (under the definition of wildlife) in India. It established protected areas, provided legal safeguards for endangered bird species and created extensive rules for safeguarding bird's habitats, biodiversity and ecological balance.⁴⁵ *The Forest (Conservation) Act, 1980*,⁴⁶ contributes to bird conservation by making restriction on the indiscriminate diversion of forest land for purposes other than related to the forests and by maintaining forest ecosystems that serve as essential nesting, breeding, feeding and migratory habitats for numerous bird species.⁴⁷

There is an Act, which indirectly contributes to bird conservation by providing a comprehensive law on protection of environment and biodiversity preservation. It is known as the Environment (Protection) Act, 1986.⁴⁸ It allows the Government to take adequate measures to safeguard ecological environment that is necessary for the lives and well-being of birds.⁴⁹ The National Forest Policies of 1894, 1952 and 1988 gradually shifted from a revenue-oriented approach to a conservation-focused approach. The 1952's and 1988's policies emphasized increasing forest cover, protecting biodiversity, maintaining ecological balance and promoting afforestation, thereby indirectly supporting the conservation of bird habitats and species.⁵⁰ Birds have additional legal safeguard through Section 325 of the Bharatiya Nyaya Sanhita, 2023.⁵¹ It makes some acts punishable, like slaughtering, subjecting to toxic material, causing permanent disability or inflicting injury. Nevertheless, the provision largely approaches such acts from a property-based perspective, as the severity of punishment is often linked to the monetary value attributed to the bird rather than its intrinsic welfare or ecological significance.⁵² By enacting the Biological Diversity Act, 2002,⁵³ India has created a legal framework aimed at conserving biodiversity, ensuring its sustainable utilization and fulfilling its commitments

⁴³ Sangeeta Taak, "Animal Protection Laws in India and One Right Approach: An Analysis," 11(1) *Forensic Research and Criminology International Journal* 1, 2 (2023).

⁴⁴ *The Wild Life (Protection) Act, 1972* (Act No. 53 of 1972).

⁴⁵ V. Pumkhansiam, "A Brief Historical Overview of Wildlife Conservation in India," 4(3) *International Journal of Social Science Exceptional Research* 227, 230 (2025).

⁴⁶ *The Forest (Conservation) Act, 1980* (Act No. 69 of 1980).

⁴⁷ Dutta, *supra* note 46, at 203.

⁴⁸ *The Environment (Protection) Act, 1986* (Act No. 29 of 1986).

⁴⁹ *Id.*

⁵⁰ Aditya Kumar Joshi *et al.*, "National Forest Policy in India: Critique of Targets and Implementation," 10(1) *Small-scale Forestry* 83, 86–87 (2011).

⁵¹ *The Bharatiya Nyaya Sanhita, 2023* (Act No. 45 of 2023).

⁵² Minhas, *supra* note 39.

⁵³ *The Biological Diversity Act, 2002* (Act No. 18 of 2003).

under the Convention on Biological Diversity. It encourages bird conservation by preserving ecological habitats and encouraging the adequate use of biological resources. It also provides for the proper division of gains arising from the utilisation of these resources and has also created institutional mechanisms, including the National Biodiversity Authority, State Biodiversity Boards and Biodiversity Management Committees.⁵⁴ Bird conservation is indirectly supported by the Forest Rights Act, 2006,⁵⁵ which acknowledges the rights of ST's and indigenous forest communities over natural resources, while promoting their role in protection and management of forests. Since healthy forests provide essential habitats, nesting sites and food sources for birds, community participation in forest conservation under the Act contributes in the safeguarding of bird's species. The Act also encourages proper utilisation of forest resources and helping to preserve ecosystems that support various bird species.

The National Green Tribunal Act, 2010,⁵⁶ helps to protect birds by providing a special forum to address environmental disputes. It can stop or restrict projects that may damage bird habitats and ecosystems. For example, the Tribunal suspended a large hydroelectric project to protect the habitat of an endangered bird species. The Wetlands (Conservation and Management) Rules, 2017,⁵⁷ protect important wetland habitats used by birds for feeding, nesting, breeding and migration. Rules 4, 5 and 7, help to conserve wetlands and prevent activities that may harm bird populations and their habitats. The Prevention of Cruelty to Animals (Pet Shop) Rules, 2018,⁵⁸ and the Wild Life (Protection) Amendment Act, 2022,⁵⁹ also strengthen the protection of birds by ensuring their welfare in pet shops, regulating wildlife trade, implementing CITES's provisions and preventing illegal exploitation and trafficking of bird species.

5. Judicial Approach to Bird Conservation

Through judicial interpretation Indian courts have consistently stressed upon the importance of bird conservation and ecological protection. Through a series of judicial pronouncements, the judiciary has efficiently acted to safeguard birds and their habitats. The courts have actively promoted the proper operation of legal measures, enacted for the welfare and protection of

⁵⁴ *Id.* at 204.

⁵⁵ The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (Act No. 2 of 2007).

⁵⁶ The National Green Tribunal Act, 2010 (*Act No. 19 of 2010*).

⁵⁷ The Wetlands (Conservation and Management) Rules, 2017, notified vide G.S.R. 1201(E), dated 26 September 2017.

⁵⁸ The Prevention of Cruelty to Animals (Pet Shop) Rules, 2018, notified vide G.S.R. 844(E), dated 6 September 2018.

⁵⁹ The Wild Life (Protection) Amendment Act, 2022 (Act No. 18 of 2022).

birds, recognizing their ecological significance and contribution to biodiversity conservation. *Tarun Bharat Sangh, Alwar v. Union of India*,⁶⁰ was the case where the Court recognised that the State is under an obligation to preserve the environment balance. By safeguarding ecosystem of area, this case indirectly contributed to the preservation of bird species and bird habitats. The judiciary has also devised number of freedoms for birds (under the category of animals) as 'fundamental rights' in *Animal Welfare Board of India v. A. Nagaraja and Ors.*⁶¹

These include:

- i. Right to adequate food, water and nutrition,⁶²
- ii. Right to protection from suffering, bodily harm and illness,⁶³
- iii. Right to security from anxiety and stress,⁶⁴
- iv. Right to comfortable and suitable living environment,⁶⁵ and
- v. Right to exhibit natural and instinctive behaviour.⁶⁶

In this case, the Court had also prohibited bird fights (under the category of animals) involving other birds, animals or human beings and directed the Animal Welfare Board of India to ensure compliance with this prohibition. The Court further expected the legislature to take measures for the welfare of birds and other animals by preserving their dignity, rights and honour. The case, *Naveen Raheja v. Union of India*,⁶⁷ emphasized on the need to ensure that zoo keepers must fulfil their duties towards animals, including birds, kept in zoos. There was a case known as *Abdulkadar Mohamad Azam Sheikh v. State of Gujarat & Ors.*,⁶⁸ in which, on order of the court, 494 animals including birds were rescued from cruel captivity as they had been confined in small cages and prevented from flying or moving freely. The Court held that such treatment constituted cruelty and affirmed that birds have a right to live without unnecessary suffering. Recognizing the natural right of birds to fly in the open sky, the Court stressed the on the duty of citizens to protect animal welfare and emphasized that wildlife conservation is essential for maintaining ecological balance and environmental harmony.

⁶⁰ *Tarun Bharat Sangh, Alwar v. Union of India*, (1992) Supp (2) SCC 448.

⁶¹ *Animal Welfare Board of India v. A. Nagaraja and Ors.*, (2014) 7 SCC 547.

⁶² Minhas, supra note 39, at 26.

⁶³ *Id.* at 27.

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Navin M. Raheja v. Union of India and Ors.*, (2001) 9 SCC 762.

⁶⁸ *Abdulkadar Mohamad Azam Sheikh v. State of Gujarat and Ors.*, Special Criminal Application No. 1635 of 2010 and connected matters (Guj. H.C., decided on 12 May 2011).

Re: Smuggling and Illegal Trading of Endangered Species of Birds,⁶⁹ case the court assured that birds without mature flight feathers and young birds lacking independent survival skills cannot be captured or traded. The Court emphasized that migratory birds are entitled to protection under Indian law regardless of their place of origin and also had given directions to the authorities to strictly implement legal mechanisms to prevent cruelty, illegal capture and the trade of birds. *M.K. Ranjitsinh v. Union of India*⁷⁰ underscores the importance of regulating renewable energy projects to ensure that conservation measures for the Great Indian Bustard are not compromised. The Court accepted the recommendations of the Expert Committee, including the undergrounding and rerouting of critical power lines, restrictions on new renewable energy projects in priority habitats and the implementation of extensive conservation measures for the bird species. It directed that all mitigation measures be initiated immediately and completed within two years to safeguard the GIB from extinction while supporting sustainable development.

The Supreme Court's observation in *In Re: Ramlila Maidan Incident*,⁷¹ supports bird conservation by recognizing that the Constitution extends protection beyond human beings to animals, plants and the environment. It also emphasised that birds are an essential components of biodiversity, are therefore entitled to protection under India's constitutional framework. *Dr. Maya D. Chablani v. Radha Mittal*,⁷² supports protection of birds by recognizing that compassion towards living creatures includes safeguarding their basic needs. The ruling further strengthens bird protection by recognizing that the protection afforded under Article 21 extends beyond humans to encompass all living species. For birds, this means not merely survival but also the protection of their welfare, natural habitats, freedom and dignity.

The Bombay High Court, through *Bombay Environmental Action Group v. State of Maharashtra*,⁷³ emphasised the ecological importance of mangrove ecosystems and directed the State Government to ensure their conservation. A direct connection between environmental degradation and the right to life was established by the Court under Article 21 of the Constitution. Although the case primarily concerned mangrove protection, the preservation of mangrove ecosystems indirectly contributes to bird conservation by safeguarding important

⁶⁹ *In Re: Smuggling and Illegal Trading of Endangered Species of Birds*, 2020 SCC OnLine Cal 2160.

⁷⁰ *M.K. Ranjitsinh v. Union of India & Ors.*, 2025 INSC 1472.

⁷¹ *In Re: Ramlila Maidan Incident v. Home Secretary, Union of India*, (2012) 5 SCC 1, para 245.

⁷² *Dr. Maya D. Chablani v. Radha Mittal*, 2021 SCC OnLine Del 3598.

⁷³ *Bombay Environment Action Group v. State of Maharashtra*, AIR 1991 Bom 301.

habitats, breeding grounds and feeding areas for numerous bird species.⁷⁴ Indian courts have increasingly expanded animal rights jurisprudence to recognize birds as sentient beings entitled to legal protection. The Delhi High Court, through *People for Animals v. Mohazzim*,⁷⁵ held that birds are entitled to a life of respect and dignity. It also observed that confining them in cages constitutes cruelty, as it deprives them of their natural freedom to fly in the open sky.

Similarly, the Uttarakhand High Court recognized in, *Narayan Dutt Bhatt v. Union of India*,⁷⁶ that birds species (under the wider meaning of animals), possesses a right to freely dignified life, bodily integrity, honour and therefore should not be regarded merely as property or object under the law. The Punjab and Haryana High Court, in a case known as, *Karnail Singh v. State of Haryana*,⁷⁷ went a step further by recognising that birds (under complete animal world), are legal entities and are possessing distinct rights and interests. Reinforcing these principles, in *Muhammadbhai Jalalbai Serasiya v. State of Gujarat*,⁷⁸ the Court confirmed that confining birds in cages amounts to illegal confinement and violates their right to live freely in the open air and sky. Collectively, these judicial pronouncements demonstrate a progressive shift towards recognizing birds not merely as components of wildlife but as living beings entitled to freedom, dignity, welfare and legal protection. Although the Indian judiciary has recognized certain rights of birds with reference to constitutional principles, yet it has not recognized birds as legal persons.

7. Recommendations

Despite the existence of various legal and policy measures for bird conservation, numerous challenges continue to threaten the survival, welfare and ecological security of bird species in India. In light of these challenges, the following recommendations are proposed to the government and relative authorities to strengthen the conservation and protection of birds in India.

- a. There is a need of dedicated bird protection and conservation act for the protection of birds and their habitats.

⁷⁴ Rubi Dutta, "Conservation Laws and Wildlife Protection in India: Ecological Implications and Legal Challenges," 46(4) *Uttar Pradesh Journal of Zoology* 201, 204 (2025).

⁷⁵ *People for Animals v. Mohazzim*, 2015 SCC OnLine Del 14133.

⁷⁶ *Narayan Dutt Bhatt v. Union of India*, 2018 SCC OnLine Utt 645.

⁷⁷ *Karnail Singh v. State of Haryana*, 2019 SCC OnLine P&H 704.

⁷⁸ *Muhammadbhai Jalalbai Serasiya v. State of Gujarat*, 2015 SCC OnLine Guj 2019.

- b. Amend the Prevention of Cruelty to Animals Act, 1960,⁷⁹ for enhancing penalties regarding cruelty against birds.
- c. Regularly update the Wild Life (Protection) Act, 1972's.⁸⁰ the schedules in accordance with the classifications of the International Union for Conservation of Nature (IUCN)⁸¹ and *Convention on International Trade in Endangered Species of Wild Fauna and Flora* (CITES).⁸²
- d. Strengthen legal protection for migratory birds and their flyways.
- e. Introduce comprehensive regulations governing the exotic bird trade and online wildlife trafficking.
- f. Develop specific legal provisions addressing bird collisions with power lines, wind turbines and communication towers.
- g. Remove ambiguities in the definition of cruelty and strengthen welfare standards for captive birds.

8. Conclusion

The legal journey of bird protection in India reflects a gradual shift from viewing birds merely as natural resources to recognizing their ecological, environmental and welfare significance. Constitutional provisions, wildlife laws, forest legislation, biodiversity regulations and judicial pronouncements have collectively contributed to the development of a protective framework for birds. Courts have increasingly emphasized that birds are entitled to live freely in their natural environment and should not be subjected to unnecessary confinement or cruelty. Still, the efficiency of these protections is not only determined by the existence of laws. There is a need of proper enforcement as well as public participation. As environmental challenges continue to evolve, a balanced approach that combines legal safeguards, scientific conservation, habitat preservation and community involvement is essential to secure a safe and sustainable future for India's bird diversity. Such an approach will not only protect bird species but also contribute to maintaining ecological balance, preserving biodiversity and ensuring environmental sustainability for future generations.

⁷⁹ The Prevention of Cruelty to Animals Act, 1960.

⁸⁰ The Wild Life (Protection) Act, 1972.

⁸¹ International Union for Conservation of Nature (IUCN), available at: <https://www.iucn.org> (visited on June, 18,2026).

⁸² Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), 1973.