

Supreme Court, Union Bench
Hon'ble 4th Judge Harusad Phuyal
Hon'ble 4th Judge Tekusad Duhana
Order

078-WO-0337

Subject:- Search warrant.

On behalf of the Public Interest Protection Forum, in his own right, the
Program Coordinator of the Lalitpur District, Mahalaami N.P. Ward No.
1, Vasnesanshtha and Assistant Professor of Conservation Law,
Kathmandu School of Law, Advocate Sanjay Adhikari.....

Bakheudol Ward No. 1 Vahne Qadhav.a GPA Bahnet.....

1 Acting in the People's Protection Forum, Rammam District. Ward no.
5 Bahne Shailesh Kikhon

Ju.....1

QApplicant

Kathmandu [School of Law attached to Q4 Dhalu] Ward no. Ward No.

7 Bane Raogal1

Kathmandu [School of Law] Bajhang District Jayaprvi N.P. Ward No. 7

Bane Kusb Raj Jaishi

Q4Dhalu] District Qatanpatan Ga.Pa. Ward No. 8 Bahnesjun Authority]
1 People's Protection Forum Acting in Garhwa District. Ward no. 7 Manparu BahneanavaN
Chaudhar]1

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State Office and Tourism Department, Babaharmahal, Kathmandu [.....1
Office of the Prime Minister and Minister, Government of Nepal, Sanhedarwar,
Kathmandu1 Ministry of Forests and Environment,
Sanhedarwar.....1 hour] Office of the Prime Minister,
Nazsal, Kathmandu [.....1 Shas { Uhar] Bal Udhan Office, E-L
Halchok, Kathmandu [.....1 Chitwan State Police Office,
Kasra, Chitwan..... 1 Badya State Police Office, Thakur},
Badya..... 1 Shazulaphanta State Police Office, Majhgaon,
If you don't.....1 side Office, Aadharbhar,
Bara.....1 Koishatpuv4yaj4tuarl Office, Pem Kushaha,
Sanusar].....1 Office of the Chief Justice, Ramshahpath, Kathmandu
[.....1 State Nature Conservation Fund,
Godawar].....1 United High Salan Cooperative] Institute, Sau

The summary of the writ petition filed under the jurisdiction of this Court in accordance with
Article 46 and Clauses (2) and (3) of Article 133 of the Constitution of Nepal and the order
of this Court is as follows:-

That's right.

1. The Earth is the common home of all biological species. Human existence has been maintained
by the harmonious and harmonious relationship between humans, other animals and plants
since time immemorial. However, due to increasing consumerism, materialism and illegal
trade, many biological and plant^a species have become endangered, which has increased the
risk of human existence becoming endangered. The protection of biological diversity has
become not only a matter of national concern but also a matter of global concern. In view of this need

CITES is an international trade regulation of tropical and subtropical forests.

(Convention on International Trade in Endangered Species of Wild Fauna and Flora)

The constitution has been made. A. According to the constitution, the state must be responsible for conserving endangered and threatened species in their natural state, regulating their illegal trade, creating necessary legal and institutional mechanisms, and confiscating and taking action against illegal trade, possession, or transportation of prohibited species. The main objective of the Convention is to prohibit or regulate the illegal international trade in species of flora and fauna included in Schedules 1, 2 and 3, their reproduction or reproduction.

Ensure the conservation of the endangered species. Nepal signed the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) on 18 June 1975 (4 Ashadh 2032) and has declared its commitment to fulfill the obligations and national obligations provided by this Convention for the conservation of endangered species. Accordingly, in order to implement the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), Nepal has enacted the International Trade in Endangered Species of Wild Fauna and Flora Act, 2073 and the Regulations, 2076, to regulate the conservation, management, transport and trade of endangered species. Asia]

(*Elephas maximus*) is a protected and endangered species under the Convention on the Rights of the Child, and therefore it is the legal and international obligation of the Government of Nepal and the relevant bodies to conserve it.

2. Although countries like Sri Lanka, Thailand and others have established systems for animal-friendly treatment and proper facilities for treating diseases and injuries, in Nepal, in the name of protecting and managing domesticated elephants, they have traditionally been subjected to inhumane and cruel treatment. The elephants are tied up with iron chains for long periods of time and tortured in the name of war, beaten with sharp instruments, deprived of their natural habitat and social interaction, and inhumanely treated with sick and elderly elephants.

Animal husbandry and modern agricultural management are incompatible. Such practices have a negative impact on the physical and mental health of elephants and have also undermined their fundamental right to a dignified and natural environment. It is therefore imperative that the state and relevant bodies adopt a system of animal-friendly management to ensure a natural and healthy way of life for elephants. 3. As per Rule 12 of the Trade in Wild Plants and Herbs Regulations, 2076, within one year of the commencement of the Regulations, it is permissible for household owners to re-register wild plants in their private ownership. The obligation has not been fulfilled. Due to the legal system for the illegal sale of live animals as per Rule 15, the two states and the Department of Wildlife Conservation and the concerned agencies have not taken necessary action, which is why illegal purchase, trafficking and trafficking of elephants are taking place in India. It has also been seen from various studies and reports that areas including Sauraha are the hubs of illegal trade in live animals. The petitioner organization Public Interest Protection (PIP) has repeatedly requested information, advocated and communicated with the relevant bodies regarding the status, data, protection and regulation of the records, but effective implementation has not been achieved, incidents of fraud and cross-border fraud are continuing, and illegal use of cash in the name of the petitioner is also being carried out. Although Section 26 of the National Forest and Wildlife Conservation Act, 2029 and Section 3 of the Wildlife and Plant Protection Act, 2073 prohibit the illegal purchase, transfer and trade of wildlife, the legal system has become ineffective due to the inaction of the opposition parties. Despite various precedents and rulings issued by the Supreme Court regarding biodiversity, wildlife conservation, environmental justice and the implementation of additional obligations, the lack of opposition has led to the denial of the right to live in a clean and healthy environment, biodiversity, and the right to live in a clean and healthy environment.

The constitutional obligation of the State to protect and impartially exercise its rights has been adversely affected. 4. The

petitioners have been active in the protection of public interest, conservation of biodiversity and the rule of law, and since the matter is of public concern, they are entitled to a writ of certiorari. The petitioner has filed the petition. The Public Interest Protection Ministry (PIP) has taken initiative, advocacy and communication with the concerned bodies for the protection of the rights, data, regulation and effective implementation of the relevant laws. The Ministry has filed a petition on 2077/10/27 with Ref. No. 86-077/078-PIL sought details and information from the State Revenue and Forestry Department, after not receiving the information on time, a letter was sent again on 2077/11/18 and only after this, the department provided information on 2077/12/02. After this, in 2077/12/04, in Ref. No. 93-077/078-PIL, it was requested to seize the unclaimed elephants and take action against those involved in illegal trade, while in Ref. No. 100-2077/78 dated 2077/12/23, Information was sought regarding the progress made in the matter. In this regard, it was informed that the department vide Challan No. 1760 dated 2077/12/05 has directed the subordinate offices to collect the current status of the goods and take legal action. Also, on receiving information on 2077/12/05 that the goods were being illegally transported to India, I immediately made an inquiry vide Ref. No. 94-077/78. Accordingly, I have sent a letter to the concerned Government of India vide Ref. No. 74/077-78 dated 17 March 2021.

The agency has also been contacted for cross-border smuggling, on 2078/04/11 through Ref. No. 04-078/79, a letter of appeal was sent to the Director General of the Department for the effective implementation of the Act and Rules on the International Trade in Exotic Animals and Plants, and after receiving information that a person named Kajarkal has been arrested, further action was sought through Ref. No. 05-078/079-PIL. Yes.

The applicant organization shall notify the relevant authorities in writing, request information,

The writ petition has been filed because the authorities have failed to take effective steps to advocate and create pressure for legal action.

5. Therefore, the illegal trade of wild animals and plants, as per Rule 12 of the Wildlife and Plant Protection Act, 2076, should be confiscated as per Rule 15 of the Act, and since the situation has been created due to the inadequacy of the responsible staff, it is necessary to take action against them, and to prevent the cruel treatment of domestic animals such as chaining, killing, and killing them. A writ petition filed by the learned counsel for the petitioner, Sanjay Adhikari, seeking issuance of appropriate orders, directions and mandates in the name of the petitioner to ensure the establishment of a peaceful environment, to ensure that the petitioner is kept in a peaceful environment, and to provide him with a peaceful environment. 6. What happened in this? Whether the order as per the demand of the petition should be issued? If the order should not be issued, the petitioner shall file a reply within 15 days, along with the reasons for the order. In the case of 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11, the Office of the Chief Justice should be notified and in the case of Respondents No. 12 and 13, the Office of the Chief Justice should be notified and

In this, it was found that the international conflict in Nepal, which has become increasingly serious in the current situation, has increased, and that the two countries have sought an urgent order. In this regard, Nepal, without showing any legal basis, has become a party to the "Convention on International Trade in Endangered Species of Wild Fauna and Flora- 1973" and has stated the purpose of implementing this Convention in the preamble. It has been observed that the "Regulation of International Trade in Endangered Species of Wild Fauna and Flora Act, 2073" has been enacted with effect from 2074/1/10. It has exercised the power conferred by Section 37 of

The Trade Regulation Act, 2076 has come into force from 2076/8/30. Section 2(d) of the Act states that "A person who is a natural person shall belong to any of the castes or subcastes of the natural persons mentioned in Schedule-1 of the Constitution" and since we have been included in Schedule-1 of the Constitution, we have also been included in the definition of "natural person" in Section 2(l) of the Act. Sections 4, 5 and 6 of the Act prohibit the import, export or distribution of any wildlife except in cases recommended by the statutory bodies and regulatory bodies constituted under the Act. In addition, long before the enactment of this Act, Section 26 of the Wildlife Conservation Act, 2029, has declared the illegal acquisition, sale or transfer of any wildlife mentioned in that section as a strictly punishable offense. Accordingly, if any organization or body has engaged in any

business of selling or trading live animals, it shall, within one year of the commencement of this rule, submit an application in the format specified in Schedule 13 of the said rule and the competent authority and the establishment shall grant the same to the person concerned. [Rules] If filed within one year of 2076/8/30 of the date of enforcement, as per Rule 15 (1) (a)

It is hereby ordered that the matter raised in the writ petition, including the issue of the illegal encroachment of the forest due to non-compliance with the provisions of the Rules, be disposed of immediately, and that if the valuable forest that has existed on the earth for thousands of years cannot be protected, the irreplaceable natural resources of Nepal, along with the natural resources, be immediately restored, as per Rule 49 (2) (a) of the Supreme Court Rules, 2074, pending the final disposition of this petition. It has been released. Please inform the public of this in advance.

- 1) To immediately initiate and implement effective measures for the international cooperation, cooperation, and cooperation of the State, including the transfer of assets.
- 2) Within one month of the issuance of this order, the unregistered goods shall be registered as per Rule 12 of the Regulation of International Trade in Wild and Plant Species Regulations, 2076, and the goods held by the persons, institutions or bodies who have failed to do so shall be confiscated as per Rule 15 of the Regulations and kept under the control and custody of the concerned body.
- 3) A progress report on the work done in connection with the signing of the agreement, the signing of the agreement and the recording of the agreement in accordance with this order shall be submitted to the concerned authorities within one month.

[The matter is closed] Order of this Court dated 2078.5.30 of the Supreme Court of India.

7. Since the Head Office of the State Government does not have the authority to record and register the records of the forest, its activities, including the record keeping, are within the jurisdiction of the Ministry of Environment, the State Finance and Forestry Department, the State Nature Conservation Fund, etc., the initial management of the same is being done by the Government of Nepal. In addition, the investigation work on the complaints received regarding the above-mentioned theft is being done by the various units of the Government of Nepal. The letter dated 2078.06.14 from the Crime Investigation Department of the Prime Minister's Office, regarding the immediate cessation of the international dispute, arrest, and transfer of the Sattarapya project and the effective implementation of the same, has been circulated to all the units and the data and investigation of the relevant documents related to the dispute of the Sattarapya project and other related projects are being conducted with the sensitivity of the responsibility of the government. In the case of Nazsal, the petition is dismissed, as per the written reply submitted by the Head Office of the Municipality of Yehora, Nazsal.

8. This Department has been entrusted with the responsibility of effectively implementing the National Forest and Wildlife Conservation Act, 2029, the Wildlife and Plant Protection Act, 2073, the Forest Act, 2076 and other existing laws for the protection, promotion, development and proper management of the National Forest and Wildlife. The petitioner claims that the provisions regarding data, name transfer and automatic signature under Section-3 of the Wildlife and Plant Protection Regulations, 2076 have not been implemented. The said regulations were issued on 30/08/2076 at a time when Nepal was also affected by the COVID-19 pandemic and its impact was also felt in the wildlife conservation sector. In order to make the implementation of the data system in Rule 12(1) of the Rules practical, the words "by virtue of which the Rules are promulgated" have been replaced by "by virtue of which a notice has been published in the Gazette". The amendment proposal has been sent to the Ministry of Forests and Environment and after the amendment is approved, the implementation process has been extended accordingly. The Department has approved the illegal purchase and sale of private property and 2077/12/05, 2078/05/27, 2078/06/04 and 2078/06/11, etc.

The R.L. offices of Chitwan, Bardiya, Banke, Shulphanta, Pasaraya, and Koshitpur have been contacted to update the details of private properties, verify their legal status, collect records, monitor international disputes and signatures, and issue instructions to implement the orders issued by the Supreme Court, and implementation is underway. The department has also made arrangements to ensure that the management of elephants is done through elephant-friendly training, that they are not treated in a cruel or torturous manner, and that the management of old and sick elephants is in accordance with the guidelines of the hospital and the department. Although efforts are being made to make elephants chain-free, it is not possible to implement the chain-free system immediately due to the challenges of the introduction of staff and the implementation of the system. Therefore, the department fulfills its legal obligations

The writ petition is hereby dismissed and the separate written reply of the petitioner submitted by the State Revenue and Natural Resources Department and the Secretary State Revenue Office, Karachi. **9.** The

petitioner has not been able to establish that the Ministry has not fulfilled any legal obligation in the writ petition. The Ministry has always been responsible, vigilant and proactive in the implementation of laws and policy arrangements related to the work area of the Ministry, including the National Forest and Wildlife Conservation Act, 2029, the Wildlife and Plant Protection Act, 2073, the Forest Act, 2076. The petitioner raised the issue of the implementation of the provisions related to the Wildlife and Plant Protection Act, 2076, the data, name transfer and signature transfer of the Act. Since the issuance of the Rules on 30/08/2076, due to the COVID-19 pandemic, there has been a nationwide administrative and organizational crisis and the forest conservation sector has been affected by it. Therefore, it is difficult to implement the provisions of the Rules within the time limit specified in Rule 12(1) of the Rules. The Ministry of Finance and Forest Conservation has issued a notification in the Nepal Gazette stating that "this Rule has been issued" on the basis of the proposal received from the State Finance and Forest Conservation Department. The Ministry has extended the necessary time for the issuance of the "Foreign Trade in Wildlife and Plant Species (First Amendment) Rules, 2078" by the Ministry of Forests and Environment. The demands raised by the petitioner should be addressed after the proposed amendment is approved and implemented. Written reply submitted by the Ministry of Forests and Environment, Paungbhedha, dismissing the writ petition. **10.** The

State Nature Conservation Fund is primarily responsible for the conservation of nature and biodiversity, including the conservation of wildlife, the conservation of mangroves, and the protection of the environment. The applicant should indicate which work or actions of this bo

The written response submitted by the State Nature Conservation Fund of Yehora, requesting that the writ petition be dismissed as it could not even be filed.

- 11.** The petitioner has not been able to prove in the petition that the situation mentioned in the petition has been created by any work, action or decision of this office. This office is established for the protection, promotion and sustainable use of biological resources as mentioned in the Constitution and existing laws. The State Wildlife Conservation Act, 2029, has been promulgated for the protection of wildlife and necessary legal arrangements have been made for the declaration of protected areas, wildlife conservation and the regulation of illegal hunting, hunting, transportation and transfer, and the Section 26 of the Act provides for strict punishment for the offences related to protected species including elephants, and the perpetrators are currently being prosecuted under the prevailing law. The petitioner claims that the Convention on the Conservation of Natural Resources has not been effectively implemented, but the International Trade in Endangered Species Act, 2073 and the Regulations, 2076 have been issued for the implementation of the Convention. It has also made provisions on offences and penalties for the illegal and illegal trade and exploitation of wild animals and plants and for the protection of their existence. Nepal is implementing its other obligations by placing the protection, data and documentation of elephants at the private level within the purview of the relevant bodies under the Ministry of Forests and Environment, and the necessary legal and administrative arrangements have been made for this. Therefore, the necessary work is being done as per the prevailing laws for the protection of wildlife and plants, there is a system in place to take action as per the relevant laws if anyone commits an illegal act, and since the petitioner's claim is unfounded both in fact and law, the writ petition should be dismissed, a written reply submitted by the Office of the Prime Minister and Council of Ministers of Yehora. **12.** The Armed Forces shall take all necessary measures to prevent and control illegal activities, including illegal immigration, smuggling, and other illegal activities in the border areas.

To facilitate the work, this organization is coordinating with other stakeholders to effectively carry out its work by involving its employees in training, workshops, and seminars. The written reply submitted by the Armed Forces of Yehora on behalf of the Armed Forces of Yehora is that the writ petition has been filed with the Hon'ble Court with the intention of declaring the acts done by the petitioner as not done and the acts not done as not done as if they were done, even though the Armed Forces of Yehora are acting in accordance with their own statutes and the instructions given by the Government of Nepal . **13.** If a

complaint is filed regarding an offence under the law, the competent authority shall conduct an investigation and, after evaluating the evidence collected by the investigating officer, the government attorney may give necessary directions to the police to obtain additional evidence and, upon completion of the investigation, decide whether or not to prosecute the case. The petitioner has sought to obtain a writ of mandamus, including a writ of injunction, against the accused who has committed the offence as defined in the Wildlife and Wildlife Conservation Act, 2029 and the Wildlife and Wildlife Trafficking Act, 2073, and the act or offence of this nature committed by him, and the matter raised in the petition is not one of the nature of the offence but of the offence committed by this office. Written reply submitted by the Office of the Chief Justice of India stating that the writ petition is liable to be dismissed in the case of this office as it is of a

14. United Horse Management Cooperative Society Ltd. is an organization incorporated on 2063/04/26. The organization, instead of nurturing its own horses, has been working to use the horses owned by the farmers in a systematic manner in the tourism business and to provide income to the wealthy. The petitioner has sought confiscation of the seized items as per the Wildlife and Plant Protection Act, 2076, stating that the Act and the Act have made provision for confiscation of the seized items, but the registration has been suspended due to the COVID-19 pandemic.

The process of data collection and archiving has been greatly affected and recently, as per the interim order of the Supreme Court, the process of data collection and archiving has been accelerated. According to the records received from the State Revenue Office and the Ranganagar Municipality, this institution has 31 records. The details are available with the government agency. There is no intention to violate the law of the farmers. Regarding the purchase of the farm or transfer of rights, the Forestry and Plant Protection Act, 2073 has made arrangements to transfer rights or transfer them with the permission of the agency concerned.

The petitioner's claim is not in accordance with the law. The State Forestry and Wildlife Conservation Act, 2029, also considers only illegal transportation or trading as punishable. The allegations of cruelty, torture, chaining, beating, and hanging of the elephants, as claimed by the petitioner, are baseless. The elephants have been provided with proper food, shelter, medical treatment, and protection in a natural environment. It is also evident from the records of the Veterinary Branch of the Chitwan State Wildlife Service. There is a situation where no proper treatment has been done in the activities including the elephant festival, the elephants are being taken care of by the teachers and the petitioner has not been able to provide any solid basis for the allegations. As per Article 25 of the Constitution, the right to property is guaranteed, the protection and management of privately owned elephants is being done in statutory body has taken any action in accordance accordance with the law, and since no with the law, the writ petition should be dismissed. Written reply submitted by the United Elephant Management Cooperative Society of Bhekhera.

15. Since the establishment of this State, it has been continuously working in the conservation, promotion and management of natural, cultural and biological heritage and in controlling the illegal trade of rare and endangered species and plants. The office has been carrying out its work in accordance with the legal framework. Regarding the purchase and management of private farms, a private farm named "Vegamakal" located in the Pasay district was brought to the state for tourism purposes. Supreme Court's Emergency Order and State Laws and Regulations

After receiving the instructions of the Conservation Department, the office had written to the concerned authorities for the registration of the elephant. Accordingly, the data and registration of the elephant has been submitted to the department through the State Wildlife Office. Regarding the management, upbringing and welfare of the elephant, the elephant is being cared for and managed by the elephant-friendly training center. Considering the health of both the elephant and the elephant, it is not possible to fully chain the elephants kept in the zoo. Written reply submitted by the State Attorney's Office, Thakur, Yehora, stating that there has been no illegal, cruel or torturous treatment by this office or any action or omission in issuing the order as requested in the writ petition. The writ petition may be dismissed .

16. The National Forestry Office has been working tirelessly to effectively implement and protect, manage, and utilize the National Forestry and Wildlife Conservation Act, 2029, Species Trade Regulation Act, 2073, the Forest Act, ^ã the Endangered Wildlife and Plant 2076, and other laws related to wildlife and biodiversity. Regarding the petitioner's claim that the provisions of the International Trade in Endangered Species and Plant Species Regulation (IWPR), 2076 BS, relating to the registration, naming and registration of endangered species, have not been effectively implemented, the timely implementation of the provisions of the IWPR has not been affected due to the COVID-19 pandemic, and the amendments to the provisions of the IWPR have been proposed and forwarded to the Ministry of Forests and Environment, and once the amendments are approved, they will be implemented accordingly. Regarding the purchase and registration of private land, the details of private land within the designated area have been sent to the concerned department. As per the Supreme Court's interim order and the directions of the State Forest and Wildlife Conservation Department, the data of private land, registration, registration, t

The work related to the plan has been taken forward and after receiving a request regarding the data of a private individual named "Vegmakal", the same has been sent to the State Forest and Wildlife Conservation Department along with the details.

The data has been processed. Regarding the conservation and management of the

The care and management of the animals has been provided through the Animal Friendly Training Program, the treatment and management of the sick and injured animals has been carried out in accordance with the guidelines of the hospital and the district administration, and efforts have been made to establish a chain-of-custody system as far as possible. However, due to the conflict between the animals and the staff, it is difficult to implement the chain-of-custody system in a complete manner.

Therefore, there is no illegal, illegal or unauthorized act by the animal and the work is being done in accordance v

[Reject the application] Let us get the written reply submitted by the State Tax Office, Adhabhar, Bara.

Order Khede

17. The Court has examined the attached documents of the petition submitted to this Court in accordance with the rules and regulations for the purpose of deciding the

matter. 18. The learned counsel appearing on behalf of the writ petitioner, Mr. Upa Bannet,

Mr. Sanjay Adhikari, Mr. Prabha Savudha and Mr. Laami Nani Thapa, have stated that the earth is the common home of all biological species and human existence is inextricably linked with nature. In the current global climate where wildlife and plants are in danger due to overexploitation and illegal trade, the conservation of biodiversity has become a sensitive issue not only at the national level but also at the global level. The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), 1973, to which Nepal is a party, prohibits the illegal trafficking, possession or trade of rare, endangered and protected species classified in Appendix 1, 2 and 3, and provides for the protection of their natural habitat and the protection of their natural habitat. Illegal as defined by the The activities involved in the activities have created a clear and specific obligation. Nepal, as a party to the Convention, has enacted the International Trade in Endangered Species of Wild Fauna and Flora Act, 2073 and the Regulations, 2076. In this regard, the Convention is not

The most endangered and protected species on the list of high conservation

The Nepalese government and all relevant regulatory and administrative bodies have a legal and institutional obligation to strictly control the illegal trafficking and trade of elephants (*Elephas maximus*) to protect them. It has been observed that elephants are subjected to extreme mental and physical torture, including chaining, training, and beatings, while being raised. Apart from that, it has been observed that the owners of the vehicles are using the sick and elderly vehicles for travel, not even arranging for medical treatment and not providing nutritious food. As per Rule 12 of the said Rules, the owners of the vehicles are required to provide the required data within one year of the commencement of the Rules, and the owners of the vehicles have also failed to fulfill this obligation. This shows that illegal procurement, trading and transfer of goods from India to the country across the border is taking place, but due to the inability to have data on the goods listed in the Sita Bijatku, the identification, monitoring and surveillance of such activities have not been effective. Apart from that, poaching of wild elephants, habitat destruction, human-elephant conflict, etc. are seriously affecting the long-term survival and conservation of elephants. However, elephants that have not been registered under Rule 12 of the International Trade in Wild Animals and Plants Regulations, 2076 are not allowed to be registered. To seize as per Rule 15 of the Act, to arrest the illegal import and export of elephants, to bring the concerned employees who have been involved in the illegal import and export of elephants under the purview of the institutions and concerned institutions and to file a case against them, to prevent the chaining, beating, torturing, and killing of elephants, and to make necessary arrangements for the care and treatment of old and sick elephants, and to ensure that all elephants can live in a nature-friendly lifestyle. The debate was heard on whether a writ of mandamus should be issued.

19. The Deputy Chief Justice, Shri Dinesh Pratap Shah, appeared on behalf of the Nepali State Nature Conservation Fund, Shri Aneesh Nepal, appeared on behalf of the Nepali United Agricultural Cooperative Society, Sauraha, and the Deputy Chief Justice, Dr. The concerned agencies of the Government of Nepal - Ministry of Forests and Environment, State Forest and Wildlife Conservation Department, Offices of the State Forests, Forest Departments, Nepal Army, Armed Forces, National Nature Conservation Fund and other concerned agencies should take steps within their respective legal jurisdictions to protect, record and monitor the work related to planning, research and establishment has been carried out in a timely manner. As mentioned by the petitioner, there is no legal void or complete uncertainty. Due to the extraordinary circumstances arising due to the COVID-19 pandemic, the provisions of the Rules 12 and 13 of the Rules have not been implemented. The Rules were amended on 2080.10.04 and sub-rule (1a) was added to Rule 12. The by-laws have been introduced and all captive elephants have been registered, including the provision to apply for a visa within a month. The relevant laws on the registration, transfer, transfer and protection of personal data are being implemented by the competent authorities as prescribed. Similarly, in case of illegal procurement, smuggling or illegal activities, there is sufficient legal framework to investigate, prosecute and take action under the National Forest and Wildlife Conservation Act, 2029 and the Wildlife and Plant Protection Act, 2073. It is observed that the petitioner has sought a warrant of a broad nature only on the basis of suspicion and suspicion without providing any specific details of any crime, incident or offence punishable under law. Therefore, the concerned agency is fulfilling its legal obligations, the petitioner has addressed the issue of the householder's claim and has prepared an action plan for the next year.

We also heard a debate on whether the petition should be dismissed because it is not a valid argument.

20. In view of the petitioner's claim, the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) Act, 2073 and the Rules, 2076, made for the implementation of3 and the Rules, 2073 and the Rules, made for the implementation of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) Act, 2073 and the Rules, made for the implementation of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) Act, 2073 and the The procurement, transfer, cross-border smuggling and the sale of property against the proceeds of crime are also being carried out, and the legal obligation to confiscate the registered arms is being fulfilled as per Rule 15 of the Rules. The concerned authorities including the Wildlife Conservation Department and others are also being relied upon to deal with the illegal arms and the illegal arms are not being procured or transferred. It was seen that the authorities demanded that appropriate orders, including mandates, be issued in the name of the opposition parties to investigate and take action against them, seize unregistered weapons, prevent illegal activities such as killing, killing, and killing with weapons, establish a chain-link and natural environment-friendly system, and ensure the effective implementation of laws related to weapon protection.

21. In the written reply submitted by the respondent, it was stated that the necessary legal and institutional arrangements are in place for the protection, recording, regulation and enforcement of the protected species, that the relevant authorities are carrying out the necessary work, coordination, direction and monitoring activities within their respective jurisdictions, and that in view of the complex situation created by COVID-19, the provisions of Rules 12 and 13 of the Protected Species and Plant Protection Regulations, 2076 have been amended. Although the data and records of the victims could not be completed within the prescribed time frame, the data and

It was observed that the final stage of amendment of the rules relating to registration has been reached, the complete household and private (captive) records have been given as per the interim order issued by the Supreme Court and there is no complete trust or willful breach of legal obligation as claimed by the petitioner, and the writ petition should be dismissed. 24. After perusing the petitioner's writ petition, the written reply of the opposite office and the documents enclosed with the case, it was found that the writ petition was not filed in the writ petition. a) Whether the proposed dispute is a matter of public interest in terms of conservation of biodiversity, environmental rights and constitutional and other obligations of the state? b) What are the national and international legal frameworks and measures in place to prevent and protect the illegal trade of the endangered species 'Elephas maximus' (*Elephas maximus*) ? c) What is the status of effective implementation of legal obligations regarding the registration, recording and protection of captive elephants kept for domestic and private purposes as per the Wildlife and Plant Protection Act, 2073 and the Regulations, 2076? d) Is it necessary to implement the chain-free and natural lifestyle of the prisoners, including the traditional torture (chaining, beating, and beating)? e) Is it necessary to issue a writ or other appropriate order in the name of the accused, as requested by the petitioner?

25. Before entering into the determination of the issues raised in the dispute, the Court shall consider the following:

The debate focused on the species and nature, characteristics, importance, its ecological sensitivity, and its status in Nepal, which are the main causes of the conflict.

26. The African elephant and the Asian elephant are the main species.

The elephants found in Nepal are of Asian origin (Hannu, Janu, especially in the Elephant)

southern and southeastern parts of Asia, including Nepal, India, Sri Lanka).

The elephant is found in the Himalayas. It is the largest land mammal found in Nepal.

It is located in the Tarai and CharuL regions of Nepal. It is a protected area of the Tarai and CharuL regions of Nepal.

RL and PasaN, Chitwan, Banke, Bardiya and Shulaphanta State Qnkux and Mayawati£ Lg

In areas with important habitats and traditional biological pathways,

There are.2 Apart from that, there are government and private projects in the region for various purposes.

It is found that the hands are being raised in the Swamp.

27. We are a person with an extraordinary physical structure and high intellectual awareness. y In the app

Q is taking. This creature, which is considered strong in social, family and emotional aspects,

They generally live in matriarchal herds, in which most

And the experienced shepherd (mother) provides leadership, social discipline, and guidance to the group.

It has been found that 3 Eyanihg's memory and emotional intelligence are similar to humans.

There is a reason why these ancient biological pathways, water sources, and groups of

Members can easily understand and appreciate the behavior they have experienced. 4 Eyanihu

Due to their large size and herbivorous lifestyle, macaques often seek out food and water sources.

It seems that there will be a shortage of geographical areas and large areas. organic

Due to their nature, they migrate in search of food and suitable habitat.

¹ https://en.wikipedia.org/wiki/Asian_elephant Retrieved June 25, 2026.

² Sami Shrestha & Jiban Shrestha, *Asian Elephants and Their Status in Nepal: A Review*, 4 J. Agric. & Nat. Res. 227 (2021). Retrieved from <https://www.nepjol.info/index.php/janr/article/view/33828/26564> Retrieved on June 25, 2026.

³ Elephant Aid International, *Elephant Matriarchal Society*, Elephant Aid International (20 March, 2026), retrieved from <https://elephantaidinternational.org/fun-facts/elephant-matriarchal-society/> Retrieved June 25, 2026.

⁴ ElephantVoices, *Elephant Social Behavior*, ElephantVoices (2026) retrieved from <https://www.elephantvoices.org/elephant-social-behavior> , retrieved on 25 June, 2026.

Use ecological corridors, including long-distance international travel

Nepal and Nepal have been living in the Jhapa, Badarpur and Shulaphanta regions for centuries.

It has also been found that the movement of water buffaloes across the border with India has increased. This type of

Movement is not an accidental or unnatural event, but a natural behavior and

I want to live there⁵ is believed that the information is accurate.

28. From an environmental perspective, we are the 'keystone species' of the ecosystem.

(Keystone Species) and 'Ecosystem Engineer' (Ecosystem Engineer)

It has been implemented. To maintain the balance of water, to operate the new forest:

And it is believed that the existence of other small creatures is a prerequisite for the survival of our planet.

The construction of bridges and elephant corridors in the Haile Selassie

River provides ease of movement and grazing for other small animals.

Spreading seeds far and wide through dung (dung) and food grains

(seed dispersal) works, which contributes to forest regeneration, soil fertility, and biodiversity.

It keeps the world alive. In the midst of happiness, the hands and feet of the earth are not crossed and the earth is not shaken.

Water that flows into water holes and ravines during the rainy season

6,7

Thus, the protection and conservation of Hedaha is only one specific species.

Protecting not only the forest but also the entire ecosystem, including the bird habitat and the ecosystem as a whole.

It is even said that it is woven.

⁵ DNPWC/DoFSC (2025). Elephant Conservation Action Plan for Nepal (2025-2035). Department of National Parks and Wildlife Conservation and Department of Forests and Soil Conservation, Kathmandu, Nepal. Retrieved from https://ntnc.org.np/sites/default/files/doc_publication/2025-05/Elephant_Action%20Plan_Nepal_2025_2035_.pdf

Retrieved on 25 June, 2026

⁶ Ibid. at P. 30.

⁷ Think Wildlife Foundation, *why are elephants considered ecosystem engineers?* Think Wildlife Foundation (June 6, 2021), retrieved from <https://thinkwildlifeoundation.com/elephants-are-ecosystem-engineers/> Retrieved on June 26, 2026.

29. From ancient times to modern times, horses have played a significant role in human society. In the Mahabharata, horses are described as an important part of military power, and there are also records of horses being used for military purposes in ancient times. Especially during the Second World War, horses played an important role in the transportation of military supplies, transportation and other auxiliary functions in the geographical conditions of Japan and Burma. The elephant also holds a high position from a religious and cultural perspective. In Hindu mythology, the elephant is described as a sacred animal and as the god Ganesha. According to Hindu mythology, the elephant is associated with the story of the battle of the sea between the gods and the demons. Similarly, the elephant, Airavata, is worshipped with special respect as the vehicle of the king of the gods. The worship of Lord Ganesha as a elephant-headed deity is an important example of the religious belief and respect for elephants.⁸ Elephant images are also found in ancient sculptures, which indicate the importance of elephants in contemporary society. It is shown to have political and cultural importance. Even in Nepal, the elephant is held in special respect. Nepal is the largest of all the elephants. Including the elephant's image on the 1000 rupee note reflects the historical, cultural and national importance of the elephant in Nepalese society. Therefore, the elephant is not just a living being, but also an important animal that is deeply connected to human civilization, history, religion, culture and social identity, not just a religious and cultural standard of Nepal and Nepal. Therefore, its conservation is seen as not only the conservation of biological diversity but also the conservation of the historical and cultural heritage of humanity.

⁸ B.A. Day & Nayal et al., Wildlife Conservation Association Nepal (WildCAN) (March 2020). Retrieved from https://media.rufford.org/media/project_reports/25005-B_HECx_Manual_Nepali_2020.pdf Retrieved on 2026.

30. In Nepal, there are mainly two types of people living in poverty - farmers and domesticated animals.

Captive elephants. Chitwan, Bagan, Pashan, Banke and Shulaphanta.

The forests around the state capital and Kosi River are the habitat of the elephants.

These water elephants are found in their natural habitats.

and the forest ecosystem. Ak#tafN, AiQtahaQsak gpama forest

Some for maintenance, cleaning, cleaning and other purposes.

It has been found that^S even in the form of a house, the government has been protecting the house.

There are institutions and private sector organizations. In Nepal, there are about 230,000 water bodies and Households, 108 in government housing and 69 in private housing

The Dekh4chna who were in the year 177. 9 Government] The birth and lineage of the Swami Vivekananda Protection, rescue and disaster management, protection of wild animals like rhinoceros, tigers etc.

Analysis and estimation, calculation and capture in special situations, ceremony and

If you find that the work is being used in the village, then the people in the village are tourists.

It has been found to be used in various activities such as safaris, local festivals, elephant festivals, elephant friendly-walks/ethical wildlife tourism etc.¹⁰

In general, the upbringing and management of animals is not only for human enjoyment or economic gain. including but not limited to biodiversity conservation, environmental protection and ecology

Maintaining the balance of the ecosystem is seen as important.

31. Due to illegal trade in forest products and illegal wildlife trade

After a serious crisis arose in the natural balance, such illegal trade was regulated and

With the establishment of the Q4ÿaÿa, the State Forest and Forestry Commission was established in 1973.

Convention on International Trade (CITES) was revised and entered into force in 1975.

⁹ Supra note 5, at pp. 11-13

¹⁰ Sandeepa Gautum & Narayan Kaju, *Demographic and Health Status of Captive Elephants Around Chitwan National Park, Nepal*, 23 Biodiversitas J. Biological Diversity 1621 (2022).

See also. In this regard, the Asian elephant (*Elephas*) has suffered a serious decline in its population due to illegal trade in ivory, skin and other products and habitat destruction. In order to protect this species from extinction, it was listed in Appendix I of the CITES Convention in 1975. There is a complete ban on the commercial trade of elephants of this species. Nepal is a party to CITES and the Constitution of Nepal has adopted a policy of special protection for endangered species. Nepal has a legal and constitutional obligation to protect the species. Nepal has granted full protection to the Asian elephant as a 'protected species' in Schedule-I of the National Wildlife and Wildlife Conservation Act, 2029. Those who injure or transport the species are liable to imprisonment for a term of up to 10 years. A fine of Rs. 5 lakh to Rs. 10 lakh or imprisonment for a term of 5 to 15 years or both has been made stricter. The Nepali Parliament has enacted the Forest and Wildlife Trade Regulation Act, 2073 and the Regulations, 2076, in this regard. However, the welfare approach to the conservation of wild and domesticated elephants has become increasingly problematic due to human-animal conflict, habitat destruction, illegal trafficking, and the chaining of elephants under wildlife management. In essence, the data, recording, ownership, conservation and welfare of domesticated elephants have recently been established as important subjects under the Wildlife Conservation Law and other international conventions. However, it is also seen that there is a lot of controversy regarding the legal organization, conservation and welfare of such domesticated and privately owned elephants.

32. Now, considering the question whether the dispute is a matter of public concern or not, the issue raised in the writ petition is not related to any particular private right, interest or interest of a limited class but is related to the protection of natural resources, biodiversity,

It is observed that the effective implementation of the obligations undertaken by Nepal to the international community is lacking. The writ petition alleges that the existing laws for the control of illegal trade, trafficking and smuggling of endangered species such as wild animals have not been implemented, and that the provisions of the Wildlife and Plant Protection Act, 2076, have not been complied with. It has been alleged that the non-confiscation of the said drugs under Rule 15 and the reliance on the said agency has led to an increase in transnational smuggling of drugs, adversely affecting biodiversity and environmental health. Such a matter is not only of concern to any individual but also to the common good of the entire society, the nation and future generations.

It's raining.

33. Article 30 of the Constitution of Nepal guarantees the fundamental right of every citizen to live in a clean and healthy environment, while Article 51(g) directs the state to conserve, conserve and sustainably utilize the natural resources of the country, including forests, forests, and forests. Similarly, other international treaties, including the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), to which Nepal is a party, have also established the conservation of endangered species as a state obligation. Since the conservation of wildlife and biodiversity is a matter of concern not only for present but also for future generations, it also encompasses the Principle of Intergenerational Equity.

34. Regarding disputes of public interest, this court has held that the Government of Nepal, the Secretariat of the Supreme Court, and the Supreme Court have agreed to hear the case and that the court has held that “ a dispute of public interest is not a dispute limited to the individual rights or interests of any particular person or persons, but is a dispute relating to the collective rights or interests of the general public or any community of people of the Nepali state, and that no

11 N.K.P. 2048 Issue 12 “No.No.4430

The decision as to whether a dispute is of public interest or not is to be made on the basis of whether the dispute relates to the collective rights or interests of the general public or a group of people or to the rights or interests of a particular person or persons.” This has been argued, but it has also been argued in other languages.

Mr. Ajan Kumar Ayyal and Mr. Also the office of the Prime Minister and the Council of Ministers

The mandate given is in my hands.¹² “ Based on the nature, character or character of the dispute , it is necessary to touch upon whether this dispute is a public dispute or a private dispute. Generally: the origin of the country, the system of governance, social order , education, health and morality of the general public , the economic condition of the country, cultural or religious issues, social justice, environmental justice, etc. The subject matter of the law is a matter of public interest or concern. However, the subject or area of public interest or concern cannot be specified as such. This is a matter to be decided on a case-by-case basis. However, while interpreting the issue of public interest to **be** decided by the court, it should be interpreted in relation to the rights and freedoms conferred by the Constitution or the law .”

Additional information has been found. If a matter affects the wider community, public health, environment, natural resources or constitutional values, then such a matter is

The subject is of public concern. The issues raised in the debate are also

Effective implementation of laws, environmental protection, environmental rights and state

Since the matter has been considered as a matter of public responsibility and the petitioners are working on this matter.

As has also been seen, it is clear that there is a complete and sufficient concern regarding this matter. Therefore,

Reiteration of material subject to public interest

See you later.

35. National and international measures to prevent and protect illegal trade of 'Elephas maximus' (*Elephas maximus*) listed as endangered species

12 N.K.P. 2073 points. 9 & No.No. 9686

What are the legal implications and challenges when considering the future of the country, as we know it?

Protecting wildlife is not only an environmental necessity but also a necessity of modern science.

Creation of natural resources for future generations

(Principle of Intergenerational Equity) is also relevant. E-wide

Illegal trade, taxation and unregulated exploitation of pulses and sugarcane in India.

Because the very existence of the species is in danger, the rest of the community is facing such a crisis.

Conservation has been accepted as a shared responsibility. With this aim,

In 1973, the United Nations General Assembly adopted the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

(Convention on International Trade in Endangered Species of Wild Fauna and Flora-

CITES) has been in force since 1975. Nepal has

The U.S. Constitution was signed on 18 June 1975 at the Great Council.

The Convention has made provision to protect the existence of the species listed in Schedules 1, 2 and 3 by

regulating, controlling or prohibiting the trade in them. In particular, the species listed in Schedules 1, 2 and 3 are

The AQcial included in 1] is the same as the AH4at Dalu BhN and Lopo4makhu species.

There are strict controls on trade.¹³ Article 2 of the CITES Convention

(Article II)¹⁴ declares the tribes listed in Schedule I to be on the verge of extinction.

(threatened with extinction) ^ã This is the same

A complete ban on foreign trade for commercial purposes and only

Trading is strictly regulated and permitted only for scientific or conservation purposes.

It is found that special legal protection has been granted to the QMN.

¹³ Convention on International Trade in Endangered Species of Wild Fauna and Flora app. I, Mar. 3, 1973, 27 UST 1087, 993 UNTS 243.

¹⁴ CITES, 1973, Article II- Appendix I includes all species threatened with extinction which are or may be affected by trade. Trade in specimens of these species must be subject to particularly strict regulation in order to further endanger their survival and must only be authorized in exceptional circumstances.

36. Other international instruments on the conservation of biological diversity, including the Convention on Biological Diversity, 1992 (CBD), have also seen the obligation to protect biological diversity for the benefit of future generations, including for its conservation, sustainable use and enjoyment. The International Union for Conservation of Nature (IUCN) Red List lists Asian elephants as endangered, meaning they are at risk of extinction.¹⁵ In addition, other principles of environmental justice, such as the principle of intergenerational equity, sustainable development, and the precautionary principle, have been incorporated into other legal instruments, which help to protect the precious gifts of nature for present and future generations. The implementation of these additional obligations has been completed. 37.

Nepal has enacted legal provisions at the national level, including the National Forest and Wildlife Conservation Act, 2029, the International Trade in Endangered Species and Plant Species Act, 2073, and the International Trade in Endangered Species and Plant Species Regulations, 2076. According to Section 1016 and Schedule-1 of the National Forest and Wildlife Conservation Act, 2029, the wild boar has been listed as a protected species. Section 26 of the Act provides that anyone who illegally purchases, sells or transports any protected species including boar shall be punished with a fine of Rs. 500,000 to Rs. 100,000 or with imprisonment for a term of five to ten years or with both. The International Trade in Wild Flora and Fauna Act, 2073 BS regulates the trade, transportation, import and export of wild flora and fauna, endangered species

¹⁵ IUCN. 2025. The IUCN Red List of Threatened Species. Version 2025-2. Accessed from <https://www.iucnredlist.org>. accessed on June 26, 2026.

¹⁶ Section-10: The wildlife mentioned in Schedule-1 of this Act shall not be considered as protected wildlife and hunting thereof shall be prohibited.

It is seen that Section 3 of the Act states that “No person shall purchase, possess, use, cultivate, cultivate, propagate, transport, export or import any endangered or threatened plant or specimen thereof.” Similarly, the International Trade in Tropical Wild Plants and Herbs Regulations, 2076 has prescribed the procedures for data collection, recording, ownership transfer and management of tropical wild plants and herbs. It is observed that these legal provisions are also consistent with the objectives of the Constitution, as Article 30 of the Constitution of Nepal guarantees the right to live in a clean and healthy environment and Article 51(g) establishes the protection, conservation and sustainable use of natural, man-made and biological resources as a policy obligation of the State. 38.

The government has adopted the "Elephant Conservation Action Plan for Nepal, 2025-2035" to conserve elephant habitat, maintain human-elephant coexistence (HECx), and improve the health and welfare of captive elephants.

The Swamp Elephant Conservation Action Plan (2025-2035) has been introduced in an attempt to replace the traditional utilitarian thinking on elephant conservation with a modern **"animal welfare approach"**. This approach recognizes elephants as sentient beings with inherent rights and sensitivities, rather than as mere tools for human entertainment, transportation, or economic gain. However, to prevent such practices, the Animal Welfare Guidelines, 2073 have been issued to ensure proper management, development and quality of animals. The said guidelines emphasize on the implementation of the “five freedoms” of animal welfare. That is, freedom from hunger and thirst, freedom from discomfort, freedom from pain, injury and disease. (freedom from pain, injury or damage), to be able to exhibit natural behavior

Freedom to express normal behavior and freedom from fear and mental stress.

(freedom from fear and distress) is seen as the responsibility of the creator. This

The concept of human captivity, especially in the context of government and private arms

It is also applicable to the SDP. In relation to the SDP, it is the responsibility of the state and private sector to protect their basic freedoms, to encourage the long-term confinement of animals in the SDP, to make them "chain-free" , to arrange open pastures, to prohibit overworking and the use of painful tools such as chains, to prohibit work such as keeping them in an unsanitary position, and to ensure easy access to health services .

s

See. The local community is the "one who is responsible for the establishment of the organization" Relief Distribution Guidelines, 2080 "Human and material losses due to the arrival of the

It has also been found that legal provisions have been made to provide relief in case of any such case. Therefore, the Supreme Court has

CITES, National Forestry and Wildlife Conservation Act, 2029, Act No.

and the Law and Policy of the Government of Nepal's Wildlife Conservation Action Plan (2025-2035)

From the ground up, we see a high level of legal protection for the indigenous peoples.

39. Regarding elephant conservation, Asia has the largest population of captive elephants.

Thailand's legal framework and recent reforms pose special challenges for Nepal

Historically, domesticated animals in Thailand were classified as private property and livestock under the Beast of Burden Act, BE 2482 (1939).

If there is a time bomb, the use of elephants in the tourism industry, forced elephant riding, scenic drives and elephant training will be used by the state and

The policy here is due to serious moral, ethical, and legal issues that have arisen at an unprecedented level.

And there has been a significant change in the legal framework. In this way, the household

The protection, data, reproduction, health, welfare and organization of the animals should be up to modern standards.

The 'Elephant Bill' extended the amnesty of comprehensive legal reforms to include restructuring.

Yes.] Jaal] HaAi is caught illegally and kept as a pet,

Efforts are being made to make scientific certification mandatory by implementing DNA profiles, microchips and digital identification systems for each animal to prevent fraud in records and control international illegal trade. This has been found to be of significant help in the identification of wild and domestic animals as well as in the effective implementation of conservation laws. Similarly, in recent years, Thailand has seen the traditional tourism model of using elephants as a means of entertainment or human interaction gradually shift to the concept of ethical elephant sanctuaries, based on an 'observation-only' policy that allows tourists to observe elephants only from a distance, rather than as objects of economic exploitation.¹⁷ This approach has also transformed the concept of animal welfare into a practice that respects elephants as sentient beings rather than as mere objects of economic exploitation. 40. It is observed that, through a comprehensive study of the relevant

constitutional arrangements, prevailing national laws and international conventions in force in Nepal, a clear, coherent and systematic legal framework and system have been established at the national and international levels for the protection of endangered species of flora and fauna, the control of illegal trade and trafficking of animals, the protection of biodiversity and the establishment of sustainable management. It is the constitutional and legal obligation of the implementing and relevant bodies to implement such legal obligations. Therefore, the protection of endangered species and flora and the effect It is seen that it is necessary to consider the legal obligations not only as policy obligations but also as legal obligations protected and enforceable by national and international laws, and to implement and enforce the laws accordingly.

¹⁷ Fernanda Capellari, Ethical Elephant Tourism in Thailand: What Travelers Need to Know, ecobnb (24 Jan, 2026).

Retrieved from <https://ecobnb.com/blog/2026/01/ethical-elephant-tourism-thailand/> Retrieved on June 27, 2026.

41. Thirdly, what is the status of the effective implementation of the legal obligations regarding the registration, recording and protection of captive elephants kept for domestic and private purposes under the Wildlife and Plant Protection Act, 2073 and its Rules, 2076? In particular, in the case of elephants, no person, institution or body shall be allowed to register or register any elephants under Rule 12(18) of the Wildlife and Plant Protection Act, 2076. If the animal is kept as a wild animal (poultry), the legal provisions have been made to make an application to the establishment body in the format of Schedule-13 within one year. Sub-rule (1A) was added to the rules by the first amendment of the rules dated 2080.10.04, and in case the application is not submitted within the period as per sub-rule (1), the legal provisions have been made to make an application within a month as per sub-rule (1A). If the same is not filed within the prescribed period, the said animals shall be confiscated as per Rule 15(1)(a) 19. It is observed that the legal responsibility for the management and protection of the said bodies has been vested in the National Rehabilitation Authority (State Revenue and Wildlife Conservation Department). 42. In the writ petition, the writ petitioner has filed a petition against the Wildlife and Plant Protection (Regulation of Trade in Wildlife) Rules, 2076, which has been

18 Rule 12: (1) If any person, institution or body has kept, used, researched, exhibited, or reared any living organism for the purpose of research, conservation, domesticated any living education, conservation of biological resources, educational purposes or any other purpose, or has kept or organism or derived benefit from it, it shall, within one year from the commencement of this rule, submit an application to the regulatory body in the form as per Schedule-13 for the purpose of such breeding.

(1a) If an application is not made within the period specified in sub-rule (1), the institution or body shall be deemed to have complied with this sub-rule.

4. In respect of such grant, an application shall be submitted to the Administrative Body in the format mentioned in sub-rule (1).

19 Sub-rule (1) of Rule 15 (a)- If any person, institution or body does not provide the certificate within the prescribed time under Rule 12, the certificate shall be deemed to be valid.

It is observed that no application has been submitted to the regulatory body for the data and even though the legal mechanism to seize the data as per Rule 15 of the Rules has been invoked, the regulatory body has not taken any steps as per its legal obligation to seize the crisis victims. Due to the lack of effective implementation of the legal mechanism and the apathy of the regulatory body, Sauraha etc.

It is also seen that the petitioner has a serious claim that illegal purchases of goods are taking place in the area, and that Indian citizens are taking advantage of the open situation by trying to launder the undisclosed amount of cash and are being targeted by India. The petitioner

An example of a scam called 'Kajrakal' is that an Indian citizen was robbed of a large sum of money and another scammer was arrested and taken across the border. The video went viral on social media, and the scammer was later arrested.

43. The respondents in their written reply submitted that the Wildlife and Plant Protection (Regulations on the Control of Trade in Wildlife and Plant Protection) Rules, 2076 was published in the Gazette on 30/08/2076 and that the implementation of sub-rule (1) of rule 12 was hampered due to the outbreak of the COVID-19 pandemic within about 3 months thereof, and that the wording "the rules have been promulgated" in rule 12(1) was replaced by "the rules have been notified in the Gazette in accordance with the rules" and that a proposal for amendment has been sent to the Ministry of Forests and Environment and that the private sector has been informed of the matter.

It is observed that the Chitwan, Bardiya, Banke, Shulaphanta, Pasan, and Koshitpur District Offices have been contacted on the following dates (2077/12/5, 2078/5/27, 2078/6/4 and 2078/6/11) to update the details of the elephants in the area and to implement the Supreme Court's interim order. It is noted that the two departments

have been informed that they are not located in any city. 44. Considering the seriousness of the issues raised in the writ petition, the sensitivity of the concerned authorities regarding the protection of nature and the living beings, and the need for a new constitution, this Court has issued an interim order

It is observed that the government has issued a directive to the concerned body to immediately stop the illegal sale, transfer and disposal of the goods and to ensure that all the goods which are not registered and not recorded within one month are registered as per Rule 12 of the Rules and those which cannot be registered are confiscated as per Rule 15. A. As per the order, the process of data collection of private and household animals has been extended further, whereas on 2080.10.04, Sub-rule (1A) was added to Rule 12 of the Forestry and Forest Products (Regulation of Trade in Forest Products), 2076 and the said sub-rule was promulgated. Legal arrangements have been made to submit applications for data within six months after the said sub-rule was promulgated. As per the amendment, the data collection and recording of private and household animals has been completed within the said period. The data certificate of the data issued by the State Forestry and Wildlife Conservation Department in the name of the Department and the body has already been read. It is seen from this that the main issue raised by the petitioner regarding data and record keeping has already been addressed. Therefore, the Act and Rules relating to data and records are not being implemented in a systematic manner, and the concerned authorities have taken necessary steps in accordance with the court's interim order and the amended legal framework to effectively implement the Act and Rules. However, the process of such data and records should not be limited to a one-time formal process but should be a continuous process of recording, monitoring and legal

It is seen that the implementation of the QN4T through monitoring is within the scope of the QN4T responsibility of the QN4T implementation.

45. Data and records for the protection of natural resources are not only an administrative procedure but also a fundamental tool for resolving disputes regarding illegal transfer of ownership, illegal trade and the creation of natural resources. Such lack of effective implementation of legal obligations weakens the protection system, creates difficulties in monitoring and regulation, and increases the risk of illegal trade.

Although the legal system regarding data and registration of horses kept for domestic and private purposes has recently been implemented, the purpose of the Act and Regulations is not only to provide data but also to protect the rights of the owner, establish a record of legal ownership, and effect transfer of names and signatures.

It is seen that effective action is being taken on this issue in terms of regulation , prevention of illegal procurement and foreign exchange, regular monitoring and inspection, ensuring the welfare and protection of animals and combating lawlessness. Based on the data provided,

The legal obligations of the relevant government agency are not fulfilled.

The regularity of the record, the condition of each individual, the location and the influence of the owner.

Supervision, control of illegal import, export or transportation, implementation of minimum standards for animal husbandry and action in case of violation as per the Act.

The government agencies responsible for research and action are expected to remain in place.

The legal framework for such data and records is limited to formalities and is governed by the Act.

And the goal of biodiversity conservation, as defined by the Constitution, is to be optimistic.

There is a state of knowing. Therefore, the full responsibility prescribed by the Act and the Regulations

Effectiveness, transparency and accountability of government agencies

There appears to be an outstanding legal obligation.

46. The fourth step is to determine the number of the four elements, namely the number of the two elements and the number of the three elements.

Torture (chaining, hanging, beating) is not permitted.

ā Chain yō

(chain free) and implement an arrangement that matches the child's natural lifestyle.

Whether it is necessary or not, we have high intellectual capacity, social

It is a group of people with complex emotional sensitivities and behaviors.

They naturally move in groups, travel over vast geographical areas, and

This creature, which lives according to its natural instincts, is kept in a confined space for a long time.

Inflicting physical or mental pain in the name of religion, culture, or tradition

Animal welfare practices do not seem to match with other New Zealand efforts to protect, protect, and protect animals.

47. The domesticated animals mentioned in the writ petition are not suitable for human consumption.

The traditional methods of training adopted in the name of making

Deep ethical and practical concerns regarding livelihood, welfare and conservation

It has been shown that captive/domesticated elephants, especially elephants, are trained from a young age to obey human commands.

And it is difficult to use for travel or other business purposes.

It has a positive impact on our physical and mental well-being. We need to train

[Traditional practices used in the past include separating young children from their mothers, tying them to chains or ropes for long periods of time, and restricting social contact and

It is found that the opportunity to demonstrate natural behavior is a source of income for those who are struggling.

Therefore, follow the order, no ankus/elephant hook, flamethrower or other device

Use only to cause irritation, pain, or injury to a person.

Not only that, but the mental state is also affected. This increased fear, pain, and anxiety are also experienced.

And the behavior of the elephant is seen as a form of control, which is the

Natural behavior is being suppressed. Thus, cruel and inhumane behavior that causes fear, pain, and psychological distress in the name of domesticating or training animals is contrary to human moral values and is even acceptable under the law.

48. The attempt to mount the elephant on the elephant's body during an elephant safari

Consider the welfare of the people and adopt other alternative use measures.

It is observed that on the one hand, the , Tourism Development and Employment]

economy is an important economic activity in areas including Sauraha, while on the other hand,

A wild animal is considered a wild animal, but a wild animal is considered a human being.

There is irresponsible behavior in the Pannuaf°. The brain, the heart and the soul of the

The structure is said to have been developed for human-powered vehicles. The horses have been used for a long time.

Carrying a load, moving around, and providing food, water, and social needs.

Neglected to treat stress, zonal problems, skin and fungal diseases, and

Pain and suffering can be relieved. Thus] do not indulge in meditation or meditation

The value of living beings as means of use and

The responsibility of the organization does not match.

49. The concept of biodiversity has become outdated and limited to only protecting the existence of species.

It is a way to develop from this and ensure animal welfare, natural behavior, and a dignified existence.

It seems to have expanded.²⁰ The real goal of biodiversity conservation is only to

Not just a living being, but a natural being, as painless and healthy as possible.

The ability to make a living is a state of being able to create. From this perspective, we can use it in a traditional way.^S It is essential to establish a safe, responsible, and timely manner for those who are willing to work long hours, use sharp objects, or exert physical pressure on the chain .

50. Retaliation, non-complaints, abuse, and especially harm.

What is the state of affairs, scientific studies and foreign affairs in the world?

The country has adopted a policy of conservation, including measures. Thailand has

The use of horses for commercial, recreational, recreational, or heavy transportation is considered to be a labor-intensive and

The practice of using painful procedures is prohibited by law. ^ã Presently:

'hands-off observation model' and 'hands-off observation model'

(Elephant Welfare Regulations) have been rejected. We are being treated as natural and

²⁰ PC Paquet & CT Darimont, *Wildlife Conservation and Animal Welfare: Two Sides of the Same Coin?* 19 Animals

Welfare (2010). Retrieved from <https://www.raincoast.org/wp-content/uploads/2010/00/Paquet-and-Darimont-2010-Wildlife-Conservation-Animal-Welfare.pdf> Retrieved on June 28, 2026.

In social environments, the introduction of observe-only sanctuaries, which prohibit physical contact with elephants (such as not being able to touch them), and the introduction of chain-free systems, which allow only natural observations of elephant behavior, have been shown to have positive effects on elephant mental and physical health, and have even led to the development of sustainable tourism.²¹ In Myanmar, although government-owned elephants have long been used in the timber industry, changes in forest management policies and animal welfare have led to The protection, treatment and provision of services based on natural environments for the elderly, injured or disabled elephants is a priority. In this regard, Myanmar Timber Enterprise (MTE) has tried to ensure the physical and mental well-being of elephants by integrating the traditional knowledge and modern veterinary services, scientific management and experience of the mahouts
 ã who have been caring for the elephants with conservation work.²²

51. It is essential to establish legal and policy frameworks to promote ethical and eco-friendly tourism models in Nepal, in line with welfare standards. Some countries have limited or prohibited traditional efforts to exploit elephants for recreational or commercial purposes, prioritizing the natural behaviour, welfare and habitat of elephants. They chained the prisoners and trained them through physical torture, and forced them to travel by carrying their
 ã wrists.

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²¹ World Animal Protection, *Elephants. Not Commodities: The True Cost of Elephant Tourism in Asia*, World Animal Protection (2020). retrieved from <https://www.worldanimalprotection.org/globalassets/pdfs/elephants-not-commodities.pdf> Retrieved from June 28, 2026.

²² Khyne U Mar, *Historical Account of Managing Overabundant Wild Asian Elephants in Myanmar by the Kheddah System of Capture: Philosophy, Principles and Practices*, 14 Animals 2506 (2024). Retrieved from https://www.researchgate.net/publication/383500781_Historical_Account_of_Managing_Overabundant_Wild_Asia_n_Elephants_in_Myanmar_by_the_Kheddah_System_of_Capture_Philosophy_Principles_and_Practices/citation/download Retrieved on June 28, 2026.

Activities include elephant walking/bush walking, positive reinforcement, sanctuaries, animal protection, veterinary care, healthy diet, healthy living and social group environment. In addition, it has been found that both the stars have gone. Similarly, conservation of wildlife corridors, habitat restoration, transboundary coordination, local community participation, and scientific management have also been accepted as conservation measures to mitigate elephant-human conflict in the context of forest elephants. 52. Nepal, being a party to the Convention on Biological Diversity and a constitutionally and legally protected

country, considers it necessary to incorporate such best practices and modern conservation principles developed in the international community into its national policy and administrative system. In particular, it is recommended that the management of domesticated animals, which are kept in chains and subjected to physical, verbal or mental torture, should be replaced by a management system that ensures the natural behavior, physical and mental well-being and a dignified existence of the animals. In addition, it is seen that elephant conservation should not be limited to species conservation alone but should also include habitat conservation, biodiversity conservation, human-elephant management, scientific research, rehabilitation and rehabilitation centers, local community participation, and policy and institutional reforms to align with international consensus on animal welfare. **53.** When using animals for tourism, recreation or other human purposes, their natural behavior, social needs and dignified existence should be respected. It is the responsibility of the government and the relevant authorities to ensure that animals are provided with positive reinforcement, adequate shelter, social contact, natural food and an environment in which they can demonstrate independent behavior, in addition to the traditional rules and regulations that have been accepted.

Or as a means of entertainment, as a sentient being, raised from a viewing angle

Adoption of equal protection and protection against toxic animal products

It is seen as a necessity. Therefore, since the elephant is not just a tool for human entertainment, labor or commercial use, but a sensitive living creature with a high level of intellectual consciousness, it is not only a tourist or other human being^s. It is becoming a legal and moral obligation of the government and stakeholders to protect animals in accordance with the standards of modern animal welfare, including through **positive reinforcement**, focusing on their natural behavior, social needs, and **dignified existence**, even when used for purposes.

54. The Department of Agriculture, Forestry and Rural Development has established a cooperative system.

Use of knowledge, treatment of diseases and illnesses, and possible chain reactions

It has been mentioned in the written reply that efforts are being made to establish the establishment.

Our entire management system is now fully integrated into the chain or traditional

All the issues of conservation, population, infrastructure, financial resources, the beginning of both the forest and the forest, the potential for conflict between forest and domesticated forest, and

The founding members of the group also have relevant legislative and policy issues.

See 4. In such a case, the court itself should determine the standard of fairness.

Instead, it is a special study, a new good effort and a

The work of reforming the country, including geographical and organizational aspects,

It seems appropriate to apply the pardon.

55. However, unnecessary physical or mental torture, cruel treatment

Measures of punishment and inhumane treatment of non-human animals

According to the scientific, humane and internationally accepted animal welfare principles (principle of animal welfare), the management system is consistent with the natural lifestyle of the animal.

It is seen that there is a need for development. For this, the concerned government has taken steps.

Standards, guidelines and action plans are applicable to both the government and private sectors.

Effective implementation of minimum standards for conservation and animal welfare, regular monitoring

It is seen that it is necessary to ensure strict compliance with the law. Such a system

Protection, prevention, rehabilitation, population and management of the affected areas to be implemented immediately and collectively

Implement in a phased and time-bound manner, assessing the effectiveness of the project.

It seems to be useful. Match and chain with the natural lifestyle of the child

It is seen that there is a need to address the issue of governance system, but since it is a matter of policy

formulation, strategic evaluation and the governance decisions of the relevant bodies,

The court shall determine the appropriate course of action without delay.

and human protection efforts. However, making the integrated management system of livestock and water resources completely chain- free or improving it in traditional ways involves technical and policy complexities such as infrastructure , population, economic resources and infrastructure, and special bodies should implement **phase-wise** reform measures in line with scientific studies and national realities.

^N
Gun Justice and justice are coming.

56. Now, the final five points, namely, the writ of mandamus in the name of the defendants as requested by the petitioner.

While considering whether or not the situation warrants issuing any other appropriate order, I hereby order that the petition be dismissed and the petition be dismissed while it is still pending before this Court.

By-laws amended in Rule 12 of the Commercial Code, 2076

(1a) The additional and amended by-laws shall be effective for a period of 6 months.

The application is being processed by the government and private sector organizations currently operating throughout Nepal.

Data and documentation of captive elephants completed

It is seen from the arguments made by the Deputy Judge and the learned Counsel for the parties, the attached documents and the arguments presented on behalf of the parties. This is the writ.

The legal identity, records and records of the parties involved in the main dispute at the time the application was filed.

And due to the lack of records and the legal amendments regarding the subject and administrative preparations

After the consultation, the data and documentation will be made available to the data subject.

Since the merits of the petitioner's claim have already been determined, it is not advisable to issue a writ of mandamus as per the petition.

57. However, in the light of the special provisions made in the Rules under sub-rule (1A) for the recording and data processing of elephants kept for domestic and private purposes, the issues raised by the petitioner in the writ petition regarding illegal international trafficking, cross-border trafficking, investigation of elephant poaching and traditional cruelty and torture inflicted on elephants have not been fully addressed and the conclusion that animal welfare has been fully achieved is not yet clear. If the current state of knowledge of the listed species, their health, their ownership, illegal trade, or potential cross-border trafficking are not properly regulated and monitored, there is always a risk that the existing data will be limited to paper formalities, thereby defeating the core principles of the CITES Convention and domestic law. Therefore, in view of the fact that the data work has been completed, it has been seen that there is a need to issue directive orders in the name of the respondents to prevent illegal trafficking of elephants, maintain strict surveillance in the border areas, ensure regular digital database update of the registered elephants, and ensure the right of the elephants to be kept chain free and to live in a nature-friendly environment as mentioned in the previous report.

58. Domesticated animals kept for private and government purposes are not only a matter of private property but also a valuable living asset for Nepal's biodiversity, ecological balance and other conservation needs. Modern conservation practices have established the value of wild animals not only from the perspective of property but also as sensitive living beings. Conservation means not only preserving the life of animals but also ensuring their natural behavior, health, reproductive capacity and welfare. This review highlights the need to implement carefully considered conservation measures for the protection of wild and domesticated animals.

59. Elephants require a large geographical area or home range to meet their daily food and water needs. Due to their biological nature, they use long migratory corridors in search of food, suitable climate and suitable habitat. The movement of elephants is not limited to the national borders of any one country but has also been observed to have occurred internationally between Nepal and India since historical times, and this has been confirmed by scientific evidence and evidence. [Special] Bahanudangi, Jhapa, the eastern border of Nepal

The region is located between the western bank of the Mechi River in India and the western border of Nepal and the Katnay Ghat Wildlife Sanctuary in India. The elephant herds are found to be migrating internationally through the Khata Corridor and Chitwan-Valmiki Landscape. The 'Elephant Conservation Action Plan (2025-2035)' issued by the Ministry of Forests and Environment of the Government of Nepal and the 'Memorandum of Understanding on Transboundary Biodiversity Conservation' signed between Nepal and India (MoU) has also acknowledged the sensitivity of this transboundary wildlife corridor of elephants and the need for its restoration in legal and policy terms. **60.** In the present time, this traditional transboundary

wildlife corridor of elephants has been reduced and fragmented due to increased human encroachment, electric fencing in border areas, unplanned expansion of physical infrastructure (such as roads, railways, and electric transmission lines) and deforestation. It is undeniable that due to the lack of habitat and the continuous demand for food and water, elephants are forced to enter human settlements. As a result, human-elephant conflict has reached an extreme level, which on the one hand is destroying valuable human resources and livelihoods, while on the other hand, the killing of endangered elephants by vindictive or deliberate killings, including the use of poison, has increased at an alarming rate. Therefore, natural

To protect the traditional biological paths of the elephants based on the prevailing Nepal Laws on Wildlife and Natural Resources Conservation, the spirit of the National Wildlife and Natural Resources Conservation Act, 2029, and the provisions of the Convention on Biological Diversity adopted by the Government of Nepal, Choosing a place to stay And implement a strategic plan for human-human integration.

The primary responsibility of the N is to be established.

61. Similarly, it is seen that there is a need to implement the good practices developed in other countries regarding elephants under human control in Nepal as well. It is seen that there is a need to implement elephant-friendly activities such as elephant-friendly walks, bush walks, establishment of ethical elephant sanctuaries based on an 'Observation-only' policy that allows tourists to observe elephants only from a safe distance, and establishment of elephant retirement centers for older elephants, etc., developed in other countries as well. It is not in line with modern animal welfare and wildlife conservation principles to abandon or use domesticated animals after their usefulness has been exhausted or they become old or disabled. It is seen that it is necessary to create a friendly environment for animals, taking into account the health and well-being of animals as endangered species. Establish a clear legal system for the service-retirement of elephants in government and private ownership based on their age, health condition or performance. Establish elephant retirement and rehabilitation centers, operate experienced elephants as conservation teams, provide necessary veterinary services, adequate open habitat, an environment conducive to natural behavior, and ensure a decent life. Adopt policies and institutional arrangements, including legislation on wildlife conservation and recognition of modern animal welfare. The Hon'ble Chief Minister has deemed it necessary. In this regard, for the protection of the Asian elephant (*Elephas maximus*) found in Nepal, the following directive orders are hereby issued in the name of the Hon'ble Chief Minister:-

1. To conduct mandatory data and record keeping of domestic and private elephants as per Rule 12 of the Wildlife and Plant Protection Act, 2076, to identify the illegal elephants, take necessary action as per the prevailing laws and to ensure that the transfer of ownership, purchase and transfer of elephants are subject to legal approval and record keeping system,
2. Effective coordination between the relevant agencies, forest administration and conservation agencies regarding the control of international trafficking and illegal trade in wood, and the Nepal-India border area, and the investigation and prosecution of individuals or organizations involved in illegal trafficking, transportation and trafficking in wood, as per the prevailing laws, No. 3. To prevent torture, violence and inhumane treatment of elephants, adopt scientific and welfare-aligned practices in elephant management, make elephant tourism animal-friendly, provide elephant-friendly training to guides and caretakers, and establish elephant retirement and rehabilitation centers to ensure proper treatment and protection of sick and elderly elephants, No. 4. The relationship between human-animal interaction and water and domesticated animals in terms of chaining and implementing natural management systems for domesticated animals.
It is necessary to provide a safe and natural environment for the potential elephants to thrive, develop and implement scientific standards for elephant welfare and conservation, establish ethical elephant habitats based on an 'Observation-only' policy that allows only observation from a distance of a reasonable distance, and ensure that elephants are not unnecessarily confined or confined at any time. Policy and action planning is carried out by the 4 Education Council, Nu

5. To establish coordination among relevant bodies regarding wildlife conservation, to regularly monitor conservation and management activities, and to formulate and implement speed standards for private wildlife management,
6. To plan for the conservation, restoration and effective management of natural habitats, traditional and international wildlife corridors for the long-term conservation and management of wild animals, to ensure the implementation of the policies, strategies and actions included in the Wildlife Conservation Action Plan (2025-2035), to adopt effective and preventive measures for human-wildlife conservation, and to control illegal hunting and other illegal activities of wild animals. To make necessary legal, policy and administrative arrangements and to implement them effectively. 62. To provide information

about the copy of the order to the necessary offices, including the Office of the Chief Justice and other offices. To provide information about the copy of the order to the Directorate of Judgment Implementation as per Rule 127 of the Supreme Court Rules, 2074. If the concerned person demands a copy of the order, a certified copy shall be provided as per Rule 11 of the Supreme Court Rules, 2074. The material copy of the order shall be filed in the court's court system. The order shall be filed on the back of the order.

File the application and submit it to the Ministry's Nayamansur Records Branch.

Harusad Fuyal
4th Judge

A. I agree with the order.

Tekusad Dhuna
4th Judge

Bench Officer (Deputy Secretary): Nawaraj Sankhada

Kayatur Operator: Ramsharan QTQmisana

2082 AD animal	2	Date	Daily 4th of Shabhum
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