

# BEYOND BURDEN: LEGAL PERSPECTIVES ON THE OVERUSE AND EXPLOITATION OF ELEPHANTS IN THE TOURISM INDUSTRY

Animals are not property or things but rather living organisms, subject of a life, who are worthy of our respect, compassion, friendship and support.

- MARC BEKOFF



*Figure 1: Photo by: World Animal Protection*

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## 1. Introduction

### 1.1. Background and Context

Throughout the history, animals have played an important role as a means of transportation, entertainment, tourism and so on. They have always been used for human's greed and selfishness. With the increasing concept of global tourism, it has become a major source of income for many countries and to promote tourism, animals such as elephants are getting highly exploited.

<sup>1</sup>World Animal Protection investigated the conditions endured by 2,923 elephants at tourist venues in Thailand, Sri Lanka, Nepal, India, Laos and Cambodia, and found that 77% of them were treated appallingly. If such elephants try to revolt, then they are starved, chained and mercilessly beaten. Such cruelty to promote tourism is mainly seen in Asian countries where people have found elephants to be an easy way to generate income. <sup>2</sup>Elephant rides are a popular and lucrative tourist activity, but behind the scenes the animals are taken from their mothers, their spirit is broken, and they endure cruel and stressful 'training' to make them tolerate being ridden. The debate against animal exploitation and promotion for animal welfare is ever-evolving. While few argue that such elephants are require for promoting tourism and generating revenue others argue in protecting them as they, too, are living beings subjected to mental and physical sufferings when exploited.

Countries like Botswana, Kenya and India have taken strong initiatives for making effective laws for protection of such elephants. But these efforts are not enough. There is a need for call to global cooperation for protection of these elephants. It is necessary for government to make stricter laws and for tourists to understand that their enjoyment is a suffering to the innocent animals and thus should reject such exploitative attractions. However, protection of these animals is an ongoing battle which has a long way to go and this research will try to raise an awareness for a future where elephants are protected rather than exploited.

### 1.2. Objectives

There are 3 different but related objectives for doing this research which are as follows:

- a) To analyze and compare Nepal's laws regarding protection of elephants with those of other countries (especially India)
- b) To identify the possible legal gaps and loopholes during the enforcement of available laws.
- c) To find out and analyze the public opinion on elephant abuse and law.

### 1.3. Methodology

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<sup>1</sup> World animal protection, *Thousands of elephants exploited for tourism held in cruel conditions* (2017), <https://www.worldanimalprotection.org/latest/press-releases/thousands-elephants-exploited-tourism-held-cruel-conditions/>

<sup>2</sup> World animal protection, *Animals are wildlife; not entertainers* (2015) <https://www.worldanimalprotection.org.in/latest/news/elephants-are-wildlife-not-entertainers/>

This research has adopted both the qualitative and quantitative methods. Qualitative approach has been used by referring to national and international laws, International Guidelines and so on.

Likewise, primary and secondary sources have been used to collect the essential data and information necessary for the research.

Primary: Chitwan visit (interview of deputy Mayor and ward Chairperson of Ward no.24), survey, Visit to Animal Nepal.

Secondary: Google. Scholar, national and international laws, International Treaties, SAVE Nepal website and other sites.

#### 1.4. Gaps with the existing Literature

There have been various researches on the working animals which raises genuine concern and provide factual data supporting every statement. Referring to all those, we have prepared this research paper. However, there is a gap between those existing literature and this research paper. Gaps are as follows:

##### a. Contextual Gaps

Contextual gaps refer to missing or unexplored elements of a topic in literature. While previous studies have documented the exploitation of elephants in tourism, they do not often examine the root causes of their exploitation. This paper aims to fill this gap by investigating and discussing the root reasons on why elephants are still overutilized in the tourism industries of different areas.

##### b. Theoretical Gaps

Theoretical gaps arise when existing research is limited in its conceptual or analytical framework. Most of the earlier research works on this topic primarily focus on addressing merely ethical concerns regarding exploitation of elephants. Though ethics do matter, very few studies ponder into the legal aspects of elephant welfare thoroughly. In this research, this study will examine and compare the laws of various countries, particularly Nepal, to assess their effectiveness for protecting elephants. Furthermore, it will also recommend legal modifications that can enhance elephant welfare as well as promote their ethical handling in tourism.

## 2. **Legal Framework of Animal Welfare**

### 2.1. Definitions (Global and Nepalese)

A clear understanding on the key term “Animal Welfare” is necessary to help us know more about the legal framework of a country.

#### a. Global Definition for Animal Welfare:

According to the **World Organization for Animal Health (WOAH)**:

<sup>3</sup>*Animal welfare refers to the physical and mental state of an animal in relation to*

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<sup>3</sup>World Organization for animal health, <https://www.woah.org/en/what-we-do/standards/codes-and-manuals/>

*the conditions in which it lives and dies. Good animal welfare requires that animals are free from pain, distress, and suffering and can express natural behaviors."* (Terrestrial Animal Health Code, Chapter 7.1, WOAH).

The **Five Freedoms** (developed by the UK's Farm Animal Welfare Council) are widely accepted as the foundation of animal welfare.

- i. Freedom from hunger and thirst
- ii. Freedom from discomfort
- iii. Freedom from pain, injury, or disease
- iv. Freedom to express normal behavior
- v. Freedom from fear and distress

There is no universal treaty on Animal Welfare. However, various UN resolutions and UDAW (**Universal Declaration on Animal Welfare**) provides guidelines.

**CITES (Convention on International Trade in Endangered Species)** : It regulates the illegal trading of Elephants but it is not specific to elephants in the tourism industry. However, it is indirectly regulating tourism industry by regulating their movement across border and deterring illegal trafficking. In line with CITES regulations, India has *Wildlife (Protection) Act, 1972* and the *Captive Elephant (Transfer or Transport) Rules, 2024*, which restricts movement without proper permits. Likewise, Nepal's other neighboring country, China, a CITES signatory also prohibits trade without proper permits.

#### b. Nepalese definition

There is no Animal welfare Act in Nepal which would provide a dedicated legal definition for animal welfare (welfare of elephants). However, Animal Welfare Directive, 2016 provides some protection to animals in Nepal. 'Animal Welfare' is explained by this directive in Clause 4, which addresses mental along with physical well-being<sup>4</sup>. Clause 4 adopts the Five Freedoms developed by the Animal Welfare Council of the UK. However, there is uncertainty, whether this directive applies fully to elephants used in the tourism industry, particularly those used for entertainment and excursions. The directive may primarily apply to elephants used for work, such as load carrying, but whether it applies in the case of tourism activities is not clear through the directive. In addition, this directive is just a guideline. Necessary changes and gaps can be addressed in the Animal Welfare Act, which is in the process of formulation and implementation.

Chapter 27 of the **National Penal Code, 2017** mentions about the offences relating to animals & birds.

**Constitution of Nepal (2015)**: The Constitution provides protection for the welfare of animals (including elephants) under the Directive Principles of State Policy.

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<sup>4</sup> *Animal Welfare Directive, 2073 (2016)*, <https://www.animalnepal.org.np/wp-content/uploads/2019/08/Animal-Welfare-Directive-2073-English.pdf>

**National Parks and Wildlife Conservation Act, 1973:** This law protects and promotes the elephants in their own natural habitat. But it does not mention about the protection of elephants in tourism practices.

**Animal Health and Livestock Services Act, 1998:** It mainly focusses on livestock health rather than general welfare of animals such as elephants.

Although Nepal's legal framework provides welfare laws for elephants, the enforcement remains weak. Despite widespread knowledge on such exploitation being so brutal, there is no proper legal provisions explicitly protecting the elephants. Animal Nepal, in collaboration with Government of Nepal, has been working since May 2018 to formulate and implement *Animal Welfare Act*. A comprehensive workshop was held on August 9, 2024, to discuss and promote the Animal Welfare Bill currently being drafted by the Ministry of Agriculture and Livestock Development<sup>5</sup>. However, no exact timeline for the implementation of these acts have been specified. It is crucial for Government to act swiftly on formulating the Animal welfare Act to demonstrate their dedication and commitment towards their work.

## 2.2. Ethical Status of Elephants:

History of elephants:

### A. Early use (Pre 20<sup>th</sup> century)

Traditionally, elephants were used in religious ceremonies, royal processions and labor rather than in tourism. But, during the 19<sup>th</sup>-20<sup>th</sup> century, elephants became a major attraction and a method of tourism due to colonial influence and started being used for rides and performances.

### B. Rise of Elephant tourism (mid-20<sup>th</sup> century)

After the 2<sup>nd</sup> world war, western tourists start visiting the south east Asian countries more making elephant rides and performances more popular. Elephants were used in festivals and parades, often in ways that disregard the elephants well being.

### C. Ethical concerns: (Late 20<sup>th</sup> century)

The cruel training methods, captivity stress, and harsh working conditions of elephants were exposed by Groups like: PETA and Wildlife SOS which brought few ethical alternatives which would focus on elephant rehabilitation and observation in natural setting.

### D. Modern Legal Reforms (21<sup>st</sup> century)

People have gradually begun to be aware and countries like Thailand and Nepal have imposed certain restrictions on elephant rides and performances, shifting towards ethical tourism. These

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<sup>5</sup> Sneha Shrestha, *Nepal Urgently Needs Animal Welfare Act(2024)*, Republica  
<https://myrepublica.nagariknetwork.com/news/nepal-urgently-needs-an-animal-welfare-act>

activities are catching public eye and documentaries and advocacy campaign are pressuring tour operators to move away from exploitative practices.

In 2016, one of the world's largest travel platforms, **TripAdvisor**, banned on selling tickets for experiencing anything involving elephant rides and performances and also launched Wildlife Tourism Educational Portal to inform users about ethical travel choices.

### 2.3. Landmark Cases on Elephants in Tourism Industry

#### A. The case of Ramu, Thailand (2010)

World Animal Protection exposed the abuse including being beaten, starved, chained and cruel training method used against Ramu, an elephant. Although, this incident didn't reach the court, it got a lot of public attention. Animal Right Activists and Organizations started campaigns for the protections of elephants in the tourism industry. It resulted in a widespread awareness and establishment of sanctuaries for their welfare.

#### B. The case of Sunder, India (2014-2017)

An elephant in Sri Adhishakti Temple had the same destiny as Ramu but in a religious context. The elephant, <sup>6</sup>Sunder was subjected to cruel treatment including beating, chaining and inadequate care. Animal rights organizations filed a case against the same and in 2017, the supreme court of India ruled in favor of Sunder's release and ordered to move Sunder to a sanctuary in Bihar, India. The court's ruling helped raise awareness about the ethical concerns surrounding elephant tourism and religious practices in India.

Through this judgement, a significant legal precedent was set for the treatment of elephants used in religious practices and tourism in India and also served as a reminder of legal responsibility to protect elephants in tourism industry.

#### C. In the context of Nepal

Elephant Safari is the widely known activity of Nepal which has received a lot of public criticism due to extreme training methods, repeated abuse upon elephants and so on. Some of such cases are:

- a. In 2016, an elephant named Ramu, a female elephant used for Safaris, was found chained for a very long time, brutally beaten and confined in a space which led to physical and psychological distress. *Animal Nepal* and *Wildlife Conservation Nepal* raised awareness regarding elephants in tourism industry. It got huge attention and advocacy for the same increased. This built a pressure on the government which started an investigation. **Nepal's Department of National Parks and Wildlife Conservation (DNPWC)** made public commitments to improve the welfare of elephants used in tourism, specifically in Chitwan National Park.

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<sup>6</sup>PETA, *Indian Supreme Court Upholds Order to Release Abused Elephant Sunder (2014)*

<https://www.peta.org/media/news-releases/indian-supreme-court-upholds-order-release-abused-elephant-sunder/>

- b. In 2017, not long after the commitment of DNPWC, case of Sundar came in limelight. A male elephant used for rides, suffered the same suffering as that of Ramu. He was also brutally tortured and chained for a very long time. Animal Nepal rescued the elephant and was kept in sanctuary.

There are many other such cases. Social media is flooded with the photos and videos of elephants bleeding due to torture. Elephants showing unusual behavior represents the physical and psychological distress they have to bear.

Although, such cases have been repeatedly filed and registered, no court hearings are found. Such cases are either left unheard or addressed through negotiation (two parties are offered to reach a mutual ground of compensation). The lack of justice in Nepal leads people to believe that exploitation of animal is inevitable and they often consider approaching concerned authority as pointless, anticipating a negative response.

### 3. Exploitation of Elephants

#### 3.1. Forms of Exploitation in Tourism Industry

As mentioned earlier, elephants have been tortured, abused and neglected time and again in the name of promoting tourism, in the name of bringing international exposure of the country. They have always been exploited for human greed.



Figure 2: Photo by PETA India

#### A. Elephant Rides:

Elephants are called “beasts of burden in Nepal” as they are used for Safaris, transportation and so on. They are ridden even when temperature exceeds 40 degrees Celsius. When they are not being used for a ride, elephants are treated as captive. They are left alone, separately from other elephants, or sometimes with few, tied with chains. Mother and Baby elephants are separated from a very young age making the baby elephant longing for mother's love and warmth. Jumbos (giant elephants) have up to 7 trips, 7 long days a week.



Figure 3: photo by Bal Krishna Thapa

They have to carry at least 4 people at a time on their back along with the heavy wooden 'Howdah' that weighs between 300-600 kgs. Jumbos are often tied with spiked chains which hardly allows them to move freely. The elephants are beaten with a bamboo stick or 'Ankush' to make sure they act and work properly.

#### B. The "Phajan" (Crushing Spirit)

To make sure that the elephants are submissive to work, elephants are made to undergo extreme training methods.<sup>7</sup> Elephants are broken mentally and physically through the infamous and ancient *phajaan* ritual. This means they have been taken away from their herd and their habitat in order to be brutally trained, not just for days but for weeks or even months at a time until they become submissive and compliant enough to work for humans.<sup>8</sup> Young elephants are beaten, scared or starved in the name of training. 30% of such elephants suffer from TB, while others suffer from saddle wounds or feet problems.

#### C. Elephant shows and Performances:

Elephants are forced to run, jump and kick despite their heavy bulky body. They are made to participate in 'Hatti Polo' (banned as of now), soccer, elephant beauty contest and many more during Chitwan Elephant Festival, which falls at the end of December. While participating in such performances, they are expected to run and in order to ensure elephant's compliance, they are beaten mercilessly. These activities cause the elephant to become aggressive and cause chaos threatening even human life.

#### D. Bathing with tourists:

Elephants used for bathing are often subjected to stress and overworking. They are made to bath multiple times a day with many tourists causing fatigue and exhaustion. The elephants, obviously do not bath willingly multiple times a day with tourists, so they are forced into the water using ropes or other training tools which can be very painful to them. It becomes both frustrating and traumatizing to them. Even, if they do try to resist, they cannot break free as they are forced into water using handlers.

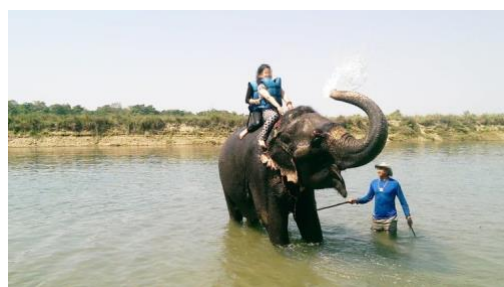


Figure 4: Photo by World Animal Protection

### 3.2. Physical and Psychological Impacts on Elephants in Tourism Industry

#### A. Physical Consequences

Lesions and Sores – Large weights, very bad harness, and beating inflict open wounds, infections, and fractures. In Chitwan Breeding center, elephants are seen tied with pointed chains causing cuts, deep wounds, etc. Nowadays, many videos are getting viral of elephants having bloody wounds at the back of the ears which shows the exploitation occurring on them.

<sup>7</sup>Wendy Werneth, the nomadic vegan, *How to be an elephant-friendly tourist* (2019)  
<https://www.thenomadicvegan.com/nepal-elephants-chitwan-national-park/>

Damage to the Backbone and painful Joints – Elephants suffering from overstrain, have symptoms of arthritis, spinal malformation, and crippling of legs. <sup>9</sup>A report by Animal Nepal titled "An Elephant is Not a Machine" highlights the adverse effects of overloading and continuous labor on elephants' physical well-being. The report emphasizes that the elephants' spine is not anatomically designed to bear heavy weights, leading to potential long-term injuries.

Malnutrition and Dehydration- Underfed a work animals lead a life of weakness, low level of immunity, and even their organ failure. Elephants in Nepal are often forced to long working time without proper nutritious food and water. They are starved, if they do not comply with the commands. These activities cause the elephants to be often dehydrated. They often have sunken eyes and weak body due to dehydration. Such photos are easily found all over social media representing their tired and exhausted body.



Figure 5: photo by PETA Asia

Respiratory Diseases: Elephants are often kept in confined places. Due to dust and poor air circulation, elephants irritate their lungs causing respiratory infections. 30% of such elephants end up having Tuberculosis.

## B. Psychological Effects

Stress and Anxiety: Elephants always live in chronic stress due to the fear of punishment and harsh treatment. <sup>10</sup>Research indicates that animals subjected to stress exhibit physiological responses, such as elevated cortisol levels, which can lead to various health issues. This causes the elephants to be anxious resulting in aggression which is dangerous for humans.

Depression and Learned Helplessness: Constant suffering makes them passive and indifferent even to pain. Depressed elephants often have reduced activity, signs of lethargy and unresponsiveness. <sup>11</sup>According to reports by World Animal Protection, elephants in the tourism industry often exhibit signs of mental distress, including depression and learned helplessness. Their survey found that many elephants used for rides or performances displayed behavioral signs of depression, such as lack of energy, repetitive movements, and swaying.

Aggression and Behavioral Changes: Frustration and isolation-driven unpredictability may turn an animal to threat to human lives. A 2018 study on captive elephants found that those kept in chains had higher stress hormone levels and showed more signs of aggression and self-harm.

Stereotypic Behaviour - Various movements - for example, pacing or swaying among captive elephants. According to Locals near Chitwan national park, after being continuously beaten by

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<sup>10</sup> Henri Julius and Kurt Kotrschal, *frontiers in psychology, Psychosocial and psychophysiological effects of human-animal interactions: the possible role of oxytocin* ,

<https://www.frontiersin.org/journals/psychology/articles/10.3389/fpsyg.2012.00234/full?>

<sup>11</sup> <https://www.worldanimalprotection.org/latest/press-releases/thousands-elephants-exploited-tourism-held-cruel-conditions/>

mahout, the elephant would start swaying its head which is a sign of irritation or stress by elephants.

### 3.3. Chitwan Elephant Festival

#### Chitwan Elephant Festival

It is a huge festival in Sauraha Chitwan, organized by the hotels, at the end of December. It is celebrated to attract the huge number of tourists. Every year, this festival gets huge national and international criticism. However, it continues to prevail.



Figure 6: photo by jungle safari resort

Chitwan Elephant festival relies on cruel training method, including chaining, physical punishment and separation of calves from their mothers.

<sup>12</sup>Ahead of the 18th Chitwan Elephant and Tourism Festival, a letter signed by worldwide animal welfare organizations and experts, including World Animal Protection, was sent to the Department of National Park and Wildlife Conservation (DNPWC). The letter urged the department to prohibit the use of elephants in entertainment at the festival and to draft policies that would phase out such exploitative practices. Elephant polo was consequently banned. However, it did not stop the exploitative practices. This year elephant festival included elephant parade, elephant football penalty shootout, elephant beauty contest, and elephant picnic. elephants who were forced to participate in the festival were being repeatedly struck and gouged with bull hooks—weapons with a sharp hook on one end—and their ears being violently yanked. Handlers also beat frightened elephants with sticks and makeshift wooden knives.

According to Programme Coordinator of Animal Nepal “When matters relating animal welfare gets mixed with profit making business, it becomes really hard to regulate even through the mechanism of law.” It’s the human selfishness that is resulting in such exploitation of animals. There is a dire need of laws to ensure the animal welfare. It is an animal welfare concern and a form of animal cruelty where animals become prone to stress, long term injuries and many more.

### **Analysis of Nepalese Laws**

#### 4.1. Constitutional and Legislative Protections

##### 1. Constitution of Nepal:

Nepal's Constitution identifies environment and conservation of biodiversity, hence indirectly addressing protection of wildlife, like elephants. Nevertheless, no provision is there to maintain the welfare of animals, particularly tourism animals.

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<sup>12</sup> World animal protection, Chitwan Elephant Festival: Undermining Nepal’s Tourism Goals (2025), <https://www.worldanimalprotection.org/latest/news/chitwan-elephant-festival/>

a. Animal Welfare Directive:

- i. Annex 1: Specifies 13 years as the minimum working age for elephants. But these elephants are given training at young age (1-5 years), tortured ruthlessly with physical punishment and starving.
- ii. Section 5(2(d)): Specifies that wounded or hurt elephants may not be engaged, but later the Chitwan Elephant Festival incident reveals the use of the elephants even after they bleed.
- iii. Section 6(2): Declares the use of humane harnesses but does not exclude the use of pointed chains, which are generally employed for the training of elephants.
- iv. Section 7: Prohibits the use of working elephants in adverse climatic conditions (e.g., heat of the sun, storms). Still, Chitwan's elephants are compelled to work in the heat.

Challenges: The Animal Welfare Directive remains unenforceable because it is just a guide and lacks the force of law.

b. National Penal Code

Chapter 27, Section 290: Prohibits cruel handling of animals, including elephants. Offences relating to beating, overloading and forcing ill or injured animals to work are liable to a prison sentence for up to 3 months or to a fine not exceeding 5,000 rupees.

However, the fines are nominal and there is no deterrent at all. Enforcement is also weak because authorities just like to drop such cases down the drain.

2. Additional Legislation

a. Animal Health and Livestock Services Act, 1998:

Indirectly dealing with animal health and not elephant welfare in the tourism industry.

b. National Parks and Wildlife Conservation Act, 1973:

Primarily concerned with conservation of wildlife in protected areas and lacks provisions for preventing exploitation in the tourism industry.

3. Government Plans and Policies

a. Nepal Elephant Tuberculosis Control and Management Action Plan (2011-2015):

Committed to routine inspections on captive elephants to control the spread of tuberculosis. While it has specific objectives, funding constraints and lack of isolation of infected elephants have limited its effectiveness.

b. Elephant Management Policy (2018):

Primary aims: Enhance working captive elephants' well-being used in tourism by providing them with proper diet, improved living conditions, and regulations on working hours. Its implementation has been weak, and local authorities have a tendency to neglect their role.

Challenges

- Limited funds and resources limit long-term influence.
- Resistance from mahouts and private owners fearing financial loss in the course of ethical tourism.

#### 4. Challenges of Issues and Implementation

##### a. Absence of Legal Provisions:

No single comprehensive law that bans the use of elephants for tourism or festivals exists, and laws lack explicit penalties against exploitative practice in tourism.

##### b. Lack of Effective Law Enforcement and Monitoring

There is no formal system of tracking the welfare of elephants that are being exploited by tourism, leading to ongoing exploitation. Strong economic interests held by tourism operators can pressure for protection of their business, hampering reforms that are necessary.

##### c. Financial and Cultural Resistance:

Some tourist operators and mahouts also survive on elephant-based tourism, and hence they oppose changes. Furthermore, elephants are highly regarded culturally in religious ceremonies and rituals, and therefore it is difficult to change people's perceptions.

#### 5. Misconceptions:

The belief is that elephants enjoy being ridden, which is incorrect. Elephants possess sensitive backs and riding or carrying loads hurts them.

### 4.2. Comparative Analysis

#### A. Legal Frameworks and Effectiveness

- India:

**Wildlife Protection Act, 1972:** This Act places elephants in Schedule I, which gives them maximum protection, prohibits hunting, and regulates trade. India with strict legal provisions is not able to implement the law effectively, particularly in areas having greater human-elephant conflict. The large geographical area and dense population have a tendency of disobeying laws implemented in the correct way.

**Prevention of Cruelty to Animals Act, 1960:** It is outlawed by the Act to inflict unnecessary suffering or distress to animals such as elephants. The punishment, however, is minimal, and the Act is poorly enforced, especially when elephants are employed in the tourist and festival industries.

*Comparative Analysis with Nepal:* India and Nepal both have strong legal frameworks for the protection of wildlife, but India's Wildlife Protection Act enforces a more rigorous protection of the elephant through stronger prohibitions against trade and hunting. India and Nepal both have one failure alone: weak enforcement. In Nepal, National Parks and Wildlife Conservation Act, 1973 provides very severe punishment to poaching but only in the case of wild elephants and not

the captive ones. The absence of adequate provisions of elephants in tourism leaves loopholes to legal protection, and it is hard to determine their welfare in captivity. The Animal Welfare Directive which prevents the elephants to certain extent is however just a guideline and it is not legally enforceable.

#### B. Government Initiatives:

- India:

Project Elephant, 1992: The project aims at conservation of habitat, avoidance of man-animal conflict, and maintenance of captive elephants. In a few locations, the project has been moderately successful, i.e., avoidance of conflict and conservation of habitat. Red tape and delay are nonetheless persistent problems. The government's responsiveness is too frequently hampered by slow-moving administrative processes, and there is little scope for immediate action to account for changing concerns of elephant welfare.

- Nepal:

Elephant Management Policy, 2018: It is specifically targeted towards the wellbeing of tourist-employed captive elephants with assurances of improved shelter, feeding, and medicine. Its operations are faced with immense difficulties like inadequate resources and dependence on external donations. As much as less administrative machinery in Nepal translates into faster policy implementation, limited frameworks of sustainable finance undermine the longevity of long-term reforms. Community forces, such as anti-poaching teams, work well but are rare since they are under-funded.

Comparative Analysis: India's Project Elephant has greater scale, not just for welfare but to protect habitat too, so it's bigger in intention. But in both the countries, the execution is bad, although Nepal is blessed with less large bureaucracy and hence the reaction time is quicker. India is otherwise more developed in infrastructure to assist in elephant conservation but the limiting factors are financial dependence and foreign aid dependence in Nepal. Nepal should learn from others like India and its Project Elephant with greater focus on sustainable finance in order to be successful in the long run.

#### C. Judicial Interventions and Public Opinion

- India:

Supreme Court Ban on Jallikattu, 2014: The Supreme Court ban on Jallikattu, the bull-taming game, was a turning point in animal rights law. The case sets a precedent for the inclusion of animal welfare within customary practice, and now the courts increasingly refuse to accept cruelty. Public opinion is still split, however, especially where cultural contexts are concerned, as the traditional use of elephants by temples and in festivals continues to be widespread.

- Nepal:

Supreme Court Ruling on Animal Sacrifice, 2016: In a second well-publicized case, the court directed the government to prohibit animal sacrifices at the Gadhimai festival on animal welfare grounds. Implementation has been patchy, and progress on implementation has been slow. Nepali

popular attitudes have also changed, with more concern for conserving elephants, but economic dependence on elephant tourism making reform harder.

Comparative Analysis: India and Nepal have both witnessed historic judicial actions in the animal welfare cause, with the Indian prohibition of Jallikattu being a case in point. The two nations have also witnessed parallel controversies of public opinion and cultural opposition. Nepal, whose court decision to prohibit animal sacrifice was a move in the right direction, has elephant tourism as a big economic enterprise with a conflict bias against welfare. Public resistance to change is also a big problem in both countries, and this means that there must be cultural awareness campaigns and additional public education to change attitudes.

## **5.Recommendation**

### **5.1. Strengthening Legal Protection:**

Nepal needs to create a definite legal framework related to working animal welfare, which was done in India under the Prevention of Cruelty to Animals Act, 1960. An inclusive Working Animal Welfare Act should include:

- a. Spell out the rights and protection of the working animals from overwork, abuse, or neglect in detail.
- b. Work-hour limit for animals employed in agriculture, transport, and tourism.
- c. Compulsory registration and health monitoring of working animals to ensure regular veterinary care and prevent overuse of the animals.
- d. Stricter punishment for violators of animal welfare legislation: increased fines and lengthier sentences in courts of law for acts of cruelty.
- e. Consultation with local and international animal welfare organizations in policy formulation, drawing from international best practice.

### **5.2 Enforcement Mechanisms**

A well-defined legal framework must be supported by effective enforcement to bring about compliance. To this effect, the following should be carried out:

- a. Develop a national regulatory body to supervise and enforce the law on animal welfare concerning the welfare of the animals, just as India's Animal Welfare Board does.
- b. Permit the specialized training of police officials, veterinarians, and municipalities to detect and prevent cruelty to working animals.
- c. Empower local government participation by providing municipalities with the authority to effectively enforce working animal laws.
- d. Whistleblower system: citizens and animal welfare groups should be able to report abuse and exploitation of working animals.
- e. Mahouts can be motivated to engage in ethical tourism roles such as: sanctuary guides or wildlife conservation educators, which have been successfully implemented in parts of Thailand and India.

### **5.3.Sustainable Alternative to Animal Labor**

For Nepal not to depend on working animals and further avoid their abuse, some sustainable alternatives need to be worked out.

- a. Mechanization in transportation and farm equipment: This would reduce dependence on draft animals for agricultural and transportation purposes; encouragement of ethical models of tourism that do not involve the exploitation of elephants, horses or donkeys – for example, replacing elephant rides with electric vehicles for wildlife safaris.
- b. Financial and technological support for farmers: As discussed in the analysis part, such exploitation is usually done by individuals having low income and are dependent on animals for survival. So, the government can allocate funds for such individuals, provide loan with low interest so that they can afford technologies and avoid the excessive use of working animals.
- c. Introduction of Programmes: various Programs can be launched which includes trainings for farmers on use of technology in replacement for working animals, policy changes, financial incentives, technology access, and enforcement measures. Programs such as: Vocational Training for Animal-Dependent Communities, Electric Transport & Green Mobility, National Animal Welfare and Sustainable Transition Program can be conducted.

#### 5.4 Public Awareness & Education

Public perception is very important in the humane treatment of working animals. For long-term change, Nepal should focus on:

- a. Inclusion of animal welfare education in school curricula: This would instill compassion and sense of responsibility towards animals from an early age.
- b. Sensitization of the media and social platforms: Media and social platforms are the most effective means of delivering a message in this 21<sup>st</sup> century. It would help bring animal welfare issues to light and foster humane practices.
- c. Engagement in the removal of harmful traditional practices: Traditional practices are always deeply rooted in the society. For such traditional practices to be removed, it requires consistent and effective efforts. Usually, the meaning in the religious textbook is often misinterpreted resulting in harmful traditional practices. Such misinterpretation should be identified and resolved. Awareness done in cooperation with religious and cultural organizations would be most effective.

#### **6. Conclusion**

Elephants are used for entertainment, which raises ethical and legal issues in countries like Nepal and India, where elephants are deeply embedded in tourism and cultural tradition. Without enforcement, due to economic dependence and a lack of cultural changes, elephants continue to afflict their body and mind with damage, even while there is legal protection in place. Though India has a better legislative framework under the Wildlife Protection Act, 1972, its implementation remains erratic and the exploitation continues. Nepal, though doing comparatively better in the field of conservation, has weak and poorly implemented legislation on captive elephants. Among other major drivers for elephant exploitation is tourism, needing urgent reforming toward more ethical alternatives, where elephants are spared unnatural

behaviors set up for the amusement of people. Sanctuary-based elephants experiences show a different breed.

The multi-layered pathway forward involves the increased legislation with improved enforcement of the same as well as giving economic incentives on ethical tourism that. While the government must close such loopholes, which perpetuate the abuse, judicial bodies must make certain that such conservation laws are not mere symbols but enforced with grave effect. International cooperation is also very key since cross-border elephant trade and illicit wildlife trafficking presents one of the most insoluble threats to these animals. All of it does not depend on the conservation organizations and sanctuaries; the tourists bear part of it too-first, by being responsible in their choices of traveling, such as not going on elephant rides and not watching shows that feature elephants; second, by deciding which sanctuaries to support.

There is yet a long way to go with conservation organizations and activists in terms of public education and promoting the change of policies to favor more the welfare of animals over money-making.

It is, now, time for action for both the legislative body, concerned authorities and tourists, as the next mile on the highway of exploitation would cost loss irrevocably, not only in elephant populations but systems of ecosystems upon whose very sustenance they sustain. As major players in elephant conservation, Nepal and India have to show the way upfront and show that ethical handling and economic efficiency can go hand in hand. It's about time strong laws, responsible tourism, and social awareness all blend together to cause things to alter-before it gets too late.

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VISIT FOR COLLECTION OF PRIMARY SOURCES OF DATA



Figure 7: Visit with ward chairperson of ward no.23 Dipak Dawadi



Figure 8: Visit with Deputy Mayor of Bharatpur Municipality



Figure 9: Visit to Animal Nepal



Figure 10: Visit to Chitwan National Park Office, Kasara



Figure 11: Visit to Crocodile Breeding Center



Figure 12: Visit to Elephant Breeding Centre