

# Reintroduction of the Asiatic Lion

## Precedence of Politics over Rule of Law

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The population of the Asiatic lion is confined only to Gujarat, and constitutes a single population that is vulnerable to extinction. In 2013, the Supreme Court directed that a second home be created for the Asiatic lion in Kuno–Palpur Sanctuary in Madhya Pradesh. However, no concrete steps have been taken in this direction. On the contrary, regressive policy changes have been carried out with the clear objective of undermining the Supreme Court’s judgment.

The recent controversy over the shifting of mugger crocodiles from their habitat near the Statue of Unity in Gujarat for tourist “safety,” has generated controversy (Sinha 2019). It is not clear as to whether the legal procedures under the provisions of the Wildlife (Protection) Act, 1972 were followed or not. However, the eagerness of the Gujarat government to shift the crocodiles on the presumption that it will cause danger to tourists, is to be contrasted with its vehement opposition to the shifting of few endangered Asiatic lions from Gujarat to a proposed second home in Kuno–Palpur Wildlife Sanctuary in Madhya Pradesh (MP). The reluctance of Gujarat to part with Asiatic lions assumes a serious dimension in view of the death of a sizeable number of lions due to the outbreak of suspected canine distemper (Ghosal 2018).

Compounding the issue further is the fact that establishing the second population of the Asiatic lion in MP is not just a policy decision but a judicial direction in view of a specific Supreme Court judgment (*Centre for Environmental Law, WW-F India v Union of India* 2013) which recognised the critical importance of establishing the second population of Asiatic lion outside Gujarat. Though the Supreme Court directed that the process of reintroduction of lions should be completed within six months of the judgment, no concrete steps have been taken till now. This article aims to identify the key reasons why the reintroduction of Asiatic lion has failed to take off despite directions from the highest court of the land. Specifically, the article examines changes in conservation priorities with respect to the Asiatic lion in the last few years and the impact it has on the reintroduction of the Asiatic lion in MP.

The Asiatic Lion (*Panthera leo persica*) once had a fairly large distribution and

originated in East and South Africa and came into India sometime between 2,000 and 3,000 years ago (Divyabhanusinh 2005). Asiatic lions became restricted to the Gir forests of western India and their numbers declined to around 50 individuals due to hunting and habitat loss (Kinnear 1920; Fenton 1924). The Gir landscape in Gujarat comprises about 9,000 square kilometres (km<sup>2</sup>) of multiple land-use area composed of the 1,880-km<sup>2</sup> Gir Protected Area (Gir); the 180-km<sup>2</sup> Girnar Wildlife Sanctuary (Girnar); and approximately 7,000 km<sup>2</sup> of human-dominated agropastoral landscape of Amreli, Bhavnagar, and Junagadh districts (Banerjee and Jhala 2012). Despite this geographical spread, it is still regarded as a single population and this makes it vulnerable to local extinction processes. In such a situation, establishing other free-ranging populations geographically distant from Gir is regarded as a conservation priority (Johnsingh et al 1998). It has also been highlighted that although, currently, lions continue to expand their range and density, it seems that in the future, human-caused mortality is likely to increase due to enhanced human–lion conflict and become a major concern for lion persistence in the Gir landscape (Banerjee and Jhala 2012).

### Necessity of a Second Habitat

In 1993, in a workshop held in Baroda, Gujarat focusing on concerns surrounding the Asiatic lion (Zoo Outreach 1993), the necessity of a second home for Asiatic lions was deliberated upon at length by scientists of Wildlife Institute of India (WII) as well as officers of the central and state governments. Three alternative sites for reintroduction of Asiatic lions were suggested for an intensive survey. The three sites identified were Darrah–Jawahar Sagar Wildlife Sanctuary (Rajasthan), Sitamata Wildlife Sanctuary (Rajasthan) and Kuno Wildlife Sanctuary (MP). After a detailed survey by the WII, Kuno Wildlife Sanctuary was found to be the most suitable.

In order to implement the Lion Relocation project, a 20-year project was

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conceived in three phases as follows: Phase 1 (1995–2000), village relocation and habitat development; Phase 2 (2000–05), fencing at the side, translocation, research and monitoring; Phase 3 (2005–15), eco-development.

The implementation of the plan involved multiple actions. The problem arose while implementing Phase 2, which involved the translocation of the lion. Ironically, it was easier to relocate villages with tribal populations, than to get the Government of Gujarat to part with a small number of its lions to ensure the long-term survival of the population. Thus, while 18 villages with more than 1,500 families gave up their ancestral land to make way for the second home of the Asiatic lion, the Gujarat government refused to part with even a single Asiatic lion, out of its population of nearly 400. In 1996, the then minister for environment and forests under the United Progressive Alliance (UPA)–regime, wrote to the then Chief Minister Narendra Modi to part with two lions for implementing Phase 2 of the project. Neither did the Gujarat government respond to the request, nor did the Ministry of Environment and Forests follow up on the issue.<sup>1</sup> A deadlock was reached due to the apathy of both the central government under the UPA and the state government under the Bharatiya Janata Party (BJP). The fact that MP was under BJP rule further compounded the problem. The political leadership in MP failed to take any concrete steps towards insisting that, after having invested money and effort, the introduction of the lion was critical for the success of the project. There were other actors who remained silent spectators to the impending failure of the lion relocation programme.

The first was the WII, which is India's premier institution on wildlife research and which conceptualised the lion relocation project. Despite the fact that the project was not progressing as per the plan, the WII did not aggressively push for implementation of the project. This is understandable, given the fact that although it is an autonomous institute, it still functions under the control of the Ministry of Environment, Forest and Climate Change (MoEFCC), which had

adopted a soft approach towards the Government of Gujarat. The second category of silent spectators was the Indian wildlife conservation groups. Specifically, major conservation groups such as the World Wide Fund for Nature (WWF), Bombay Natural History Society (BNHS), Wildlife Conservation Society (WCS), Nature Conservation Foundation and Wildlife Trust of India, among others, largely failed to articulate the importance and urgency of the reintroduction of the lion despite serving on the National Board for Wildlife, whose mandate is to advise the government.

### Supreme Court Judgment

The Supreme Court, in a landmark decision in 2013 (*Centre for Environmental Law v Union of India* 2013), took a serious view of lack of implementation of the lion relocation programme. This was in response to a public interest petition filed by the Biodiversity Conservation Trust of India.<sup>2</sup> The Court's judgment was hailed as a significant step in recognition of the fact that Gujarat is not the "owner" of the Asiatic lion and cannot have a special right over the animal (Sinha 2013). Most importantly, for the first time, the Supreme Court introduced many new concepts and principles in Indian jurisprudence, such as the "species best interest standard," "eco-centric approach" and the necessity to view sustainable development from the prism of interest of flora and fauna and not just from the standpoint of human beings.<sup>3</sup> Specifically with respect to the concept of eco-centrism, the Supreme Court elaborated:

Eco-centrism is nature-centred, where humans are part of nature and non-humans have intrinsic value. In other words, human interest does not take automatic precedence and humans have obligations to non-humans independently of human interest. Eco-centrism is, therefore, life-centred, nature-centred where nature includes both humans and non-humans. (*Centre for Environmental Law v Union of India* 2013)

The principle of eco-centrism was relied upon by the Court in highlighting the importance of protecting the Asiatic lion. According to the Supreme Court:

We re-iterate that while examining the necessity of a second home for the Asiatic lions, our approach should be eco-centric and not

anthropocentric and we must apply the species best interest standard, that is the best interest of the Asiatic lions. We must focus our attention to safeguard the interest of species, as species has equal rights to exist on this earth. Asiatic Lion has become critically endangered because of human intervention. (*Centre for Environmental Law v Union of India* 2013)

The Court most significantly held that "No state, organisation or person can claim ownership or possession over wild animals in the forest." This clarification was needed in view of the fact that Gujarat had taken a view that lions are the property of the state and are the "pride of the state." The Court finally stated that the "MoEF's decision for reintroduction of Asiatic lion from Gir to Kuno is that of utmost importance so as to preserve the Asiatic lion, an endangered species which cannot be delayed" (*Centre for Environmental Law v Union of India* 2013). The Court gave directions for the constitution of a multi-member expert committee<sup>4</sup> and that the order be carried out in its letter and spirit, within a period of six months from the date of judgment.

### Post-judgment Developments

The Supreme Court gave a timeline of six months for the implementation of the lion reintroduction programme. It has now been nearly six years and nothing concrete has been done in order to implement the orders of the Court. It is therefore imperative to trace some of the key developments after 2013 and the impediments in the reintroduction of lions in MP.

The Court had directed the Ministry of Environment and Forests to constitute an expert committee. Subsequently, the expert committee was formed by central government. The committee met for the first time in July 2013. Despite the direction of the Supreme Court to implement the project within six months of the judgment, all that the central government did was constitute the committee. The lack of urgency can be gauged from the fact that the committee met very infrequently: one in 2013, twice in 2014, and once in 2015 and 2016 each. If one examines the minutes of the meetings, it becomes clear that no concrete action

has been undertaken to ensure the effective implementation of the direction of the Court. For example, while in the first meeting in July 2013 it was decided to prepare a reintroduction plan, the second meeting in 2014 was focused on how Gujarat has been successful in the conservation of lions. Despite the fact that the prey density in Kuno had been considered by the Supreme Court while directing for the relocation of lion, in the fifth meeting held in 2016, it was decided to conduct specific research “assessing habitat characteristics and quantifying impacts of anthropogenic disturbances.” It was thus a clear instance of duplication of work, where the committee took upon the task of conducting research on Kuno Sanctuary and its viability, once again.

Nothing significant has happened so far, as far as efforts towards the relocation of the lions are concerned after 2016. However, in 2017, a significant policy change took place which clearly reveals that if things continue as they presently are, the Asiatic lion reintroduction plan is not likely to be ever implemented. This policy change was on account of the new National Wildlife Action Plan, 2017–31 (MoEFCC 2017), which replaced the earlier National Wildlife Action Plan, 2002–16 (MoEFCC 2002).

It is pertinent to point out that the National Wildlife Action Plan, 2002–16 that emphasised the need for an “alternative home” for species, which included the Asiatic lion, formed the foundation of the Supreme Court judgment directing the reintroduction of the lion in Kuno–Palpur in MP. The plan notes:

The isolation of animal species due to fragmentation of habitats reduces relict populations to unviable levels, leading to local extinction. For highly endangered species like the Great Indian Bustard, Bengal Florican, Asiatic Lion, Wild Buffalo, Dugong, the Manipur Brow Antlered Deer and the like, alternative homes are imperative. (MoEFCC 2002)

The Supreme Court declared as illegal, the central government’s plan for introduction of cheetahs from Namibia, and held that it is contrary to the National Wildlife Action Plan, 2002–16. Since the action plan was the basis of the Supreme Court judgment, the MoEFCC constituted a new committee to frame the new action plan. The committee, headed by former

director general of forests, J C Kala, comprised of wildlife conservationist Bibhab Talukdar (Aaranyak) and Vivek Menon (Wildlife Trust of India), as well as the members of the standing committee of the National Board for Wildlife.

What is deeply problematic with the new action plan is that it seems to have been framed keeping the “emotional” interest of Gujarat in mind. This is evident from the fact that the new National Wildlife Action Plan has deleted all references to the Asiatic lion. The new action plan has removed the Asiatic lion from the list of animals that require alternative homes. This is despite the fact that the threat to the Asiatic lion and its habitat is far from over. In addition to the threat of epidemic, the Asiatic lion faces even greater habitat-related threats. Writing on the threat to the lions, H S Singh (2017), member of the National Board for Wildlife stressed:

Development of industries and ports, mining activities, rails and high-speed roads in the coastal area have already impacted the lions. The increased frequency and speed of goods trains in Pivavav–Rajula line has posed a new threat as ten lions were killed during 2013–15 (source–Forest Department). Industries and mining activities around Veraval coast have forced the lions to leave the area. Pipavav port and new port activities near Kaj wetlands in Kodinar taluka cause disturbance to a group of lions settled there. The change in land-use pattern and disappearance of wastelands and community lands are other issues.

The National Wildlife Action Plan now no longer emphasises the need for an alternative home for the Asiatic lion. Most importantly, while the Asiatic lion finds no mention at all in the National Action Plan, the introduction of cheetah has found specific mention in the action plan. It mentions that an expert committee has been set up by the government for the introduction of the African cheetah into India notwithstanding the fact that the Supreme Court had declared the introduction of the cheetah as illegal. The judgment and directions of the Court are thus sought to be overruled not through a statutory law passed by the legislature, but through an action plan. This blatant non-compliance to the directions of the Court not only has serious implications for wildlife conservation

but also undermines the authority of the Supreme Court. After all, a small group of wildlife conservationists and organisations, selected by the government, framed a policy/action plan which is completely opposed to the “species best interest standard” and places the parochial interest of the state above all. It is surprising that the removal of the Asiatic lion from the national action plan has not met with any objection from conservationists across the country.

## Conclusions

The Asiatic lion relocation case shows how regional sentiments take precedence over science as well as rule of law. The relocation of the Asiatic lion from Gujarat is a conservation necessity in order to ensure the long-term security for the only lion population outside Africa. This necessity led the Supreme Court to pass a landmark judgment which prioritised wildlife conservation over narrow parochial interests through the “species best interest standard” and the necessity of having a “nature-centred” approach as opposed to a “human-centred” approach. The Supreme Court’s decision in the lion relocation case was not just a landmark decision because it gave wildlife conservation the importance it deserves, but more importantly because it dealt with an issue that had reached a political deadlock due to the reluctance of Gujarat to part with its lions. However, subsequent developments, especially after 2014, show that the changed political leadership at the national level has led the central government to support Gujarat’s reluctance to part with the lions. The fact that prominent wildlife conservationists were party to this decision and the silence of conservation organisations does not augur well for the future of the Asiatic lion. In fact, despite the Supreme Court’s categorical conclusion that the lion is not the property of the state, H S Singh (2017), member of the National Board for Wildlife wrote that the “Gir lion is the pride of Gujarat, and the local people own these lions and feel proud of the only ownership in the world.”

It is this approach, even by members of statutory bodies, which has made it

impossible to implement the judgment of the Court in letter and spirit. Instead of bureaucratic red tape—which is generally resorted to in order to circumvent Court directions—in the lion relocation issue, it is a mix of science and policy which had led to blatant non-compliance with the judgment. The recent epidemic which led to the death of nearly 28 lions could have served as a wake-up call to ensure that the relocation efforts are revived. Nothing of this sort seems to have happened. On the contrary, the National Tiger Conservation Authority, a statutory authority with the mandate to protect tigers and their habitat, has approached the Supreme Court to seek permission to revive the African cheetah reintroduction programme in India. The plans for introduction of African cheetah, if approved, would mean that the Asiatic lion—which had earlier lost its position of supremacy to the tiger in 1972 when the tiger replaced the lion as India's national animal—will be overshadowed by the African cheetah in the race to find a second home. The Asiatic lion will thus remain vulnerable to both the loss of habitat and the threat of epidemic.

The lion relocation case is a testimony to the ability of the government to circumvent the mandatory directions of the Court through innovative use of committees and policy changes. The constitutional means to overrule a judgment of the Court is to pass legislation to that effect. However, the process is cumbersome and controversial, and attracts public attention, which would lead to opposition. On the other hand, by creatively working with expert committees, hand-picked experts, and non-governmental organisations aligned with the government's policies, the government is able to circumvent the mandatory directions of the highest court of the land. The failure of the Asiatic lion reintroduction is therefore not just an issue of conservation but rather an instance of failure of rule of law and the triumph of regional parochial interest over science.

## NOTES

- 1 This fact is part of the judgment of the Supreme Court in *Centre for Environmental Law, WWF v Union of India*, 2013.

- 2 The Biodiversity Conservation Trust (BCTI) filed an intervention application in a writ petition titled *Centre for Environmental Law v Union of India* WP(C) No 337 of 1995. The intervention application was numbered as IA 100. Thus, even though the title of the case is Centre for Environmental Law, WWF India, in actuality, the Centre for Environmental Law, WWF was in no way connected to the litigation in the Supreme Court.
- 3 Despite the strong judicial pronouncement highlighting these principles, the courts in India, including the Supreme Court, have not relied on these principles unlike other environmental law principles such as precautionary principle and polluter pay principle.
- 4 The Supreme Court directed that the MoEF has to constitute an expert committee consisting of senior officials of the MoEF, chief wildlife wardens of Madhya Pradesh and Gujarat, the secretary general and chief executive officer of the WWF, S Jhala, senior scientist with Wildlife Institute of India Ravi Chellam, and senior scientist A J T Johnsingh,

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