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WHO MOVED ME FROM THE SCHEDULE?

Power of State Governments to Reclassify Species under the Wild Life (Protection) Act, 1972

I. Introduction

Recent proposals by certain State Governments in response to human-wildlife conflict have raised questions about the legal status of species under the Schedules to the Wild Life (Protection) Act, 1972 ("WPA"). In Kerala, proposals concerning Wild boar (*Sus scrofa*), Bonnet macaques (*Macaca radiata*), Asiatic elephant (*Elephas maximus*) and other conflict species raised the question whether a State may seek greater control over the classification of species under the Schedules. In Maharashtra, the reported proposal to move the Leopard (*Panthera pardus*) from Schedule I to Schedule II has made the issue more immediate, since the leopard is presently included in the highest protection category under the WPA.[1]

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The issue addressed here is whether a State Government can alter the Schedule status of a species under the WPA. Under the present statutory scheme, the power to amend the Schedules lies with the Central Government under Section 61. A State may place material before the Centre, and a State legislature may proceed within the limits of Article 254 of the Constitution of India,[2] but a State Government cannot change the legal status of a species by executive action.

The paper examines this position through Section 61 of the WPA, the legal consequences of Schedule classification, and recent State responses to conflict species.

II. Schedules under the WPA

The Schedules to the WPA assign species to different levels of statutory protection. The Schedule in which a species is included determines the restrictions, permissions and liabilities that attach to it under the WPA.

This became especially relevant after the 2022 amendment to the WPA, which reorganised the Schedule structure. Wildlife species are now primarily classified under Schedule I and Schedule II, with Schedule I broadly representing the highest protection category and Schedule II covering other protected species. Both categories remain protected under the WPA. The distinction is therefore between degrees of protection and their statutory consequences.

Since the legal protection granted to a species depends on the Schedule in which it is included, the power to alter the Schedules is a substantive statutory power. Section 61 confers that power in the following terms:

> ***"61. Power to alter entries in Schedules.—***
>
> ***(1) The Central Government may, if it is of opinion that it is expedient so to do, by notification, amend any Schedule or add or delete any entry to or from any Schedule or transfer any entry from one Part of a Schedule to another Part of the same Schedule or from one Schedule to another.***
>
> ***(3) On the issue of a notification under sub-section (1), the relevant Schedule shall be deemed to be altered accordingly, provided that every such alteration shall be without prejudice to anything done or omitted to be done before such alteration."***

A transfer of a species from Schedule I to Schedule II reduces the level of statutory protection available to it and may expand the circumstances in which action against that species can be authorised. A transfer from Schedule I to Schedule II therefore changes the legal consequences that attach to the protection of the species under the WPA .

III. Section 61 before and after 1991: Withdrawal of State Powers

Under the present form of Section 61, the Central Government may, by notification, amend any Schedule, add or delete entries, or transfer entries from one Schedule to another. The provision does not confer a corresponding power on State Governments. This marks a departure from the earlier version of Section 61, which recognised a limited role for State Governments in altering the Schedules.

Before the 1991 amendment, Section 61(2) permitted a State Government, if it considered it expedient, to transfer entries from Schedules II, III, IV or V to Schedule I. It also permitted the State Government to transfer certain entries from Part I of Schedule II, Schedule III, Schedule IV or Schedule V to other Schedules. This power, however, was not independent of the Central Government. Under the then Section 61(4), where an alteration made by a State Government was repugnant to an alteration

made by the Central Government, the Central alteration prevailed, unless the State had acted with the previous consent of the Central Government. Even where such consent had been obtained, the Central Government retained the power to modify or cancel the State alteration.

The 1991 amendment removed the State Government's power to alter the Schedules. After the amendment, the power to amend a Schedule, add or delete an entry, or transfer a species from one Schedule to another is exercisable only by the Central Government under Section 61. State Governments continue to have important responsibilities under the WPA, including enforcement, field administration, data collection and response to human-wildlife conflict. They may also place relevant material before the Central Government in support of a proposed change in classification. They cannot, however, themselves change the legal status of a species under the Schedules.

IV. Current Legal Position: State Recommendation, Central Notification and Article 254

Where a State seeks a change in the Schedule status of a species, the WPA leaves it with two possible routes. *First*, the State Government may place a proposal before the Central Government seeking action under Section 61. The Central Government may consider the proposal and, if satisfied that a change is warranted, issue a notification under Section 61. Until such notification is issued, the legal status of the species remains unchanged.

Second, since wildlife falls within the Concurrent List, a State legislature may amend the WPA in its application to that State. If the State amendment is inconsistent with the central Act, Article 254 of the Constitution will apply. In practical terms, this means that a State law which conflicts with the central Act can operate in that State only if it has been reserved for the consideration of the President and has received Presidential assent. Even then, Parliament remains free to override the State law by enacting a later law on the same subject.

A State Government may place a proposal before the Central Government, and a State legislature may pursue a State amendment subject to Article 254. However, neither course amounts to an independent State power under Section 61. The classification of a species under the Schedules changes only when the Central Government issues a notification under Section 61, or where a valid State amendment operates in accordance with Article 254.

V. Consequences of Transfer from Schedule I to Schedule II

A transfer of a species from Schedule I to Schedule II has legal consequences because the two categories do not carry the same level of protection. Section 9 prohibits the hunting of species specified in both Schedule I and Schedule II, except as provided under Sections 11 and 12. The difference lies in the circumstances in which permission to hunt may be granted, the authority whose permission is required, and the penal and regulatory consequences that follow from classification.

Under Section 11(1)(a), the Chief Wild Life Warden may permit hunting of a Schedule I animal only where satisfied that the animal has become dangerous to human life, or is so disabled or diseased as to be beyond recovery. The order must be in writing and must state reasons. The provisos to Section 11(1)(a) further require that no wild animal shall be ordered to be killed unless the Chief Wild Life Warden is satisfied that it cannot be captured, tranquilised or translocated; where it is captured, captivity is also disfavoured unless rehabilitation in the wild is not possible.

The power to permit hunting under Section 11(1)(b) in the case of Schedule II species is broader than the corresponding power under Section 11(1)(a) for Schedule I species in two material respects. First, while Section 11(1)(a) applies where a Schedule I animal has become dangerous to human life or is so disabled or diseased as to be beyond recovery, Section 11(1)(b) also applies where a Schedule II animal has become dangerous to property, including standing crops. Secondly, Section 11(1)(b) also permits hunting of "such animal or group of animals in a specified area". The provision therefore permits a form of area-based authorisation of hunting in respect of a group of animals of species placed in

Schedule II, which is materially different from the restrictive, individual 'problem animal'-specific structure of Section 11(1)(a) for Schedule I species. In practice, this results in hunting permits being granted in respect of entire groups of that species, such as Nilgai (*Boselaphus tragocamelus*) and Wild boar,[3] resulting in widespread and indiscriminate killing of these animals.



Photo: Ritwick Dutta

Section 12 also treats Schedule I species differently. A permit for special purposes, such as education, scientific research, scientific management, collection of specimens for recognised zoos or museums, or collection of snake venom for life-saving drugs, requires previous permission of the Central Government where the species is in Schedule I. For any other wild species, previous permission of the State Government is sufficient.

The Schedule in which the species is included also affects the penal and procedural consequences of prosecution. Section 51 prescribes enhanced punishment for offences relating to Schedule I species, and Section 51A imposes special bail conditions in such cases. Since Section 54 excludes compounding for offences carrying a mandatory minimum sentence, the scope for compounding of offences is correspondingly narrower for offences relating to Schedule I species. Chapter VA, particularly Sections 49A and 49B, is relevant because it regulates dealings in trophies, animal articles and other derivatives of scheduled species.

Section 62 is also relevant because it permits the Central Government to declare a species specified in Schedule II as vermin for a specified area and period. During that period and within that area, the species is deemed not to be included in Schedule II. A transfer from Schedule I to Schedule II may therefore make the species subject to a form of temporary, area-specific exclusion from Schedule II protection, which would not be available while it remains in Schedule I.

Although the immediate reason for seeking alteration in Schedules may be concerns emerging out of human-wildlife conflict, the legal effect of the transfer is not confined to conflict situations. A transfer from Schedule I to Schedule II alters the protection available to the species as a whole, with consequences for hunting permissions, regulatory authority, punishment, bail, compounding, trade restrictions and possible vermin notification.

VI. Kerala and Maharashtra: State Responses to Conflict Species

Recent developments in Kerala and Maharashtra illustrate two different legal routes through which States have recently sought greater control over conflict species. Kerala has proceeded through a proposed State amendment to the WPA as applicable within the State. Maharashtra, on the other hand, has been reported as seeking a change in the classification of the leopard through the Central Government, while also pursuing a separate amendment route concerning permissions under the WPA.

The Wild Life Protection (Kerala Amendment) Bill, 2025 proposes amendments to Section 11, Section 62 and the Schedules.[4] In relation to Section 11, it seeks to expand the circumstances in which the Chief Wild Life Warden may permit killing, tranquilising, capturing or translocating a wild animal where the animal has caused severe injury, is found in a public place where people ordinarily gather, or is found in a residential area. In relation to Section 62, it proposes to confer on the State Government the power to declare a Schedule II species as vermin for specified areas and periods. The Bill also proposes to omit the bonnet macaque from Schedule I and insert it in Schedule II.

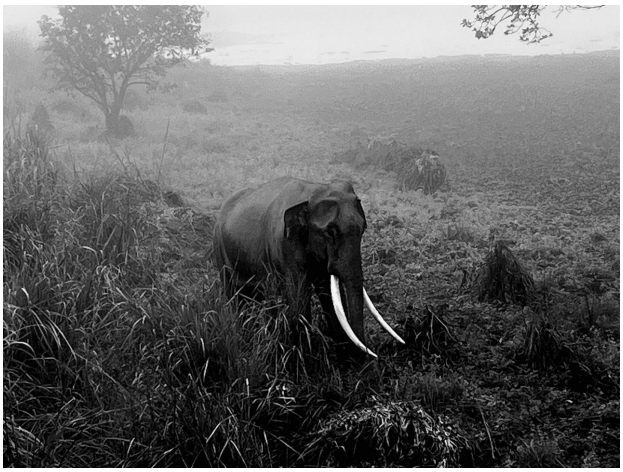


Photo: Ritwick Dutta

The Kerala proposal seeks to alter the legal framework through which the Central Act presently deals with hunting permissions, vermin notifications and Schedule classification.[5] Since wildlife falls within the Concurrent List, a State amendment of this kind may be pursued. However, to the extent that it is inconsistent with the central Act, its operation would depend on Article 254 of the Constitution, including Presidential assent where repugnancy arises.

Maharashtra presents a different legal position.[6] Public reports indicate that Maharashtra proposed to seek Central approval for transferring the leopard from Schedule I to Schedule II.[7] The leopard remains a Schedule I species unless the Central Government acts under Section 61. A Cabinet decision or statement in the Legislative Assembly cannot itself alter the Schedule. There have also been reports of a separate State amendment concerning permissions under Section 12, with the Minister stating that the amendment was not intended to reduce the legal protection available to leopards.[8] On either view, Maharashtra cannot independently reclassify the leopard under Section 61. It may place material before the Central Government, or pursue a State amendment subject to constitutional requirements, but it cannot by itself change the leopard's legal status under the Schedules.

While Kerala and Maharashtra have opted for different measures to reduce the legal protection available to species usually involved in conflict, what is common in both cases is the tendency to present alteration of legal protection for wild species in conflict as evidence of concrete State action. Notwithstanding the other measures and systems available to manage and mitigate such conflicts, the politicisation and populist treatment of such consequential legal issues call for a closer examination of how governance systems perceive the interests of non-human species when placed against emerging human concerns.

Official data shows that human-wildlife conflict fatalities in Kerala were 43 in 2025-26, of which 42 per cent were due to snakebites.[9] By contrast, road accidents alone claimed 3,733 lives in the State in 2025,[10] nearly 87 times the number of deaths attributed to human-wildlife conflict. Similarly, 2,287 persons died in 2025 from various causes while commuting on the Railways in Mumbai alone.[11] Yet such figures do not usually result in legal restrictions on, or calls for bans on, those activities. The argument is not to undermine the gravity or scale of human-wildlife conflict. Farmers, forest-fringe communities and marginalised groups incur serious socio-economic consequences from such conflict, and even one life lost is one life too many. The purpose is only to place the issue in perspective. Knee-jerk legal and administrative measures may not only be fatal for wild species as a whole, but may also prove ineffective and, in some cases, counterproductive.

VII. Legal Effect of Notifications issued under Section 61

The subsequent use of Section 61 indicates the nature of the power conferred by the provision. By notification dated 11 July 2001, the Central Government amended Schedule I to add several marine species and groups, including Sharks and Rays, Sea horses, Giant grouper (*Epinephelus lanceolatus*), Reef-building corals, Black corals (All species of the Order *Antipatharia*), Fire corals (All species of the Genus *Millepora*), Sea pens, several Molluscs and Sea cucumbers.[12] The inclusion of these marine species shows Section 61 being used to extend statutory protection beyond the more familiar terrain of terrestrial wildlife. In the case of sharks, rays and other elasmobranchs, later conservation writing has pointed to continuing pressures from fish landing, bycatch, consumption and weak regulatory attention.[13] Their inclusion in the Schedules is therefore better

understood as part of the conservation function of the WPA.

By another notification dated 30 September 2002, the Central Government amended Schedule I to add species such as Wroughton's free-tailed bat (*Otomops wroughtoni*), Salim Ali's fruit bat (*Latidens salimalii*), Swiftlets, Hill mynas, Pheasants and vultures, and amended Schedule II to add Mongooses and Grey junglefowl (Gallus sonneratii).[14] These notifications highlight Section 61 being used to revise statutory protection for a wide range of species, including species whose protection was not connected to immediate conflict concerns alone.

In *G.R. Simon v. Union of India*,[15] the Delhi High Court upheld the trade restrictions that followed after the Central Government used Section 61 to transfer several species from Schedules III and IV to Schedule I and Part II of Schedule II, bringing trade in their skins and articles within Chapter VA (Prohibition of Trade or Commerce in Trophies, Animal Articles, etc. derived from certain animals).

VIII. Conclusion

The WPA does not give State Governments an independent power to reclassify species under the Schedules. That power is conferred by Section 61 on the Central Government. The position is also consistent with the 1991 amendment, which removed the earlier limited State role in altering the Schedules. States remain important actors in wildlife administration, but the statutory power to add, delete or transfer entries in the Schedules now rests with the Centre.

The recent examples of Kerala and Maharashtra show the practical importance of this question. In both cases, proposals concerning species classification have arisen from recurring human-wildlife conflict. While Section 61 empowers the Central Government to alter the Schedules, it is silent on the specific considerations that must guide such reclassification. However, established principles of administrative law mandate that the exercise of executive power, including the issuance of statutory notifications, must be based on express and stated reasons. In the context of human-wildlife conflict, such reasons may be supported by material including records of attacks, crop loss, livestock depredation, habitat overlap, rescue or capture operations, local population estimates, measures already attempted by the State, balanced with considerations taking into account the conservation concerns and ecological consequences of reducing legal protection.

Human-wildlife conflict is a serious governance problem, often produced by several overlapping factors, including habitat fragmentation, land-use change, weak local response systems, delayed compensation, and inadequate mitigation by State agencies. The governance response should therefore strengthen conflict management, compensation, scientific monitoring and local preparedness, rather than treat reduced protection for the species as a substitute for those obligations.

References

1 Himanshu Nitnaware, 'Maharashtra's Downgrading of Legal Protection for Leopards Symbolic, Aims to Facilitate Vantara: Experts' *Down To Earth* (13 March 2026) https://www.downtoearth.org.in/wildlife-biodiversity/maharashtras-downgrading-of-legal-protection-for-leopards-symbolic-aims-to-facilitate-vantara-experts.

2 Constitution of India 1950, art 254 ('Inconsistency between laws made by Parliament and laws made by the Legislatures of States').

3 Anju Agnihotri Chaba, 'Farmers oppose revised hunting rules, fear significant crop losses' *The Indian Express* (Jalandhar, 13 September 2023) https://indianexpress.com/article/cities/chandigarh/chandigarh-wild-animals-hunting-hunting-rules-crop-loss-8937413/.

4 *Wild Life Protection (Kerala Amendment) Bill 2025* Bill No 270 of 2025, Fifteenth Kerala Legislative Assembly https://prsindia.org/files/bills_acts/bills_states/kerala/2025/Bill270of2025KL.pdf.

5 'Tusks and Tensions: On the Wild Life Protection (Kerala Amendment) Bill, 2025' *The Hindu* (21 May 2026) https://www.thehindu.com/opinion/editorial/tusks-and-tensions-on-the-wild-life-protection-kerala-amendment-bill-2025/article70144084.ece.

6 Gana Kedlaya, 'The Maharashtra Leopard Controversy Raises Concerns about the Future of Conservation in India' *Down To Earth* (16 March 2026) https://www.downtoearth.org.in/wildlife-biodiversity/the-maharashtra-leopard-controversy-raises-concerns-about-the-future-of-conservation-in-india.

7 Priyanka Kakodkar, 'State Cabinet Approves Proposal to Move Leopards to Less Protected Category: Maharashtra Forest Minister' *The Times of India* (Mumbai, 12 March 2026) https://timesofindia.indiatimes.com/city/mumbai/state-cabinet-approves-proposal-to-move-leopards-to-less-protected-category-maharashtra-forest-minister/articleshow/129512520.cms.

8 ThePrint, 'Maharashtra Assembly passes Wildlife Protection Amendment Bill' *ThePrint* (28 May 2025) https://theprint.in/india/maharashtra-assembly-passes-wildlife-protection-amendment-bill/2882804/.

9 Varsha Somaraj, 'Human-wildlife conflict deaths lowest in decade, says Kerala govt data' *The New Indian Express* (Thiruvananthapuram, 9 February 2026) https://www.newindianexpress.com/states/kerala/2026/Feb/09/human-wildlife-conflict-deaths-lowest-in-decade-says-kerala-govt-data.

10 Shan A S, '7,613 lives lost on Kerala roads in two years; 6-9 pm slot most fatal' *The New Indian Express* (Thiruvananthapuram, 8 June 2026) https://www.newindianexpress.com/states/kerala/2026/Jun/08/7613-lives-lost-on-kerala-roads-in-two-years-6-9-pm-slot-most-fatal.

11 Nitisha Natu, 'Mumbai railway commuter deaths dip 7% in 2025, but remain high' *The Times of India* (Mumbai, 5 January 2026) https://timesofindia.indiatimes.com/city/mumbai/mumbai-railway-commuter-deaths-dip-7-in-2025-but-remain-high/articleshow/126324824.cms.

12 Ministry of Environment and Forests, *Notification SO 665(E), 11 July 2001*, issued under s 61(1) of the Wild Life (Protection) Act 1972 https://upload.indiacode.nic.in/showfile?actid=AC_CEN_16_18_00007_197253_1517807324579&type=notification&filename=SO665E.pdf.

13 Dr Raju Kasambe, 'Eating Them To Extinction: Threatened Sharks And Stingrays On Our Plate' *Sanctuary Nature Foundation* (April 2024) https://www.sanctuarynaturefoundation.org/article/eating-them-to-extinction%3A-threatened-sharks-and-stingrays-on-our-plate.

14 Ministry of Environment and Forests, Notification SO 1085(E), 30 September 2002, issued under s 61(1) of the Wild Life (Protection) Act 1972 https://upload.indiacode.nic.in/showfile?actid=AC_CEN_16_18_00007_197253_1517807324579&type=notification&filename=SO1085E.pdf.

15 AIR 1997 DELHI 301.