



Animal Welfare Board of India
Ministry of Environment, Forests and Climate Change

**STUDY REPORT ON WHY USE
OF ELEPHANTS IN CIRCUSES
AND OTHER PERFORMANCES,
SHOULD BE BANNED**

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A. PURPOSE OF THE STUDY

Even if every animal protection laws were enforced in every instance, which due to lack of enforcement and resources can never practically happen, circuses, temples and tourist camps are still wholly inadequate environments for wild animals in captivity. The Asian elephant (*Elephas maximus*) is protected under the Wildlife Protection Act 1972 but is the most commonly used wild animal for entertainment in India today, and perhaps the only wild animal still used which is protected under this Act.

Elephants are highly social animals who, in nature, live in matriarchal herds, forage for fresh vegetation, play, bathe in rivers, travel as far as 30 miles per day and are active for 18 hours per day. It has been reported that, elephants used in circuses, festivals events, for joy rides and other performances suffer from lack of space and almost constant chaining which leads to health problems, such as muscular-skeletal ailments, arthritis, foot and joint diseases and psychological distress, as is evidenced by their stereotypic movements, such as repetitive swaying and head-bobbing. The stress of captivity can also lead to reproductive problems, high infant mortality rates and premature death. Establishments like circuses, temples and tourism departments and private custodians, who use elephants for performance, basically cannot function without violating animal protection laws. It is apparently illegal under the Prevention of Cruelty to Animals Act, 1960 and Wildlife Protection Act, 1972 to fail to provide elephants with adequate housing conditions, nutrition, exercise, and to severely restrict their movement and to cause them pain or suffering. To make matters worse, those who use elephants rely on physical punishment to force these animals to perform tricks that they would find frightening and confusing, or to obey commands. Circuses, elephant parade and joy ride organisers frequently transport elephants to different locations and they have no way or space to keep the animals except in chains.

According to statistics available, captive elephants killed more than 526 people in 15 years in Kerala alone. The reports of increasing numbers of elephant attacks when paraded during temple festivals and the findings of AWBI inspections of elephants in Kerala regarding their abuse, have proved beyond a doubt that cruelty is inherent in keeping elephants in captivity and forcing them to perform acts that are not natural to them.

The public is increasingly aware that wild animals suffer in captivity and when forced to perform for human entertainment. It is increasingly evident that, educated and compassionate citizens of India are rejecting the circuses, elephant parades and joy rides and are finding other forms of entertainment which do not use animals at all.

It was important for Animal Welfare Board of India (AWBI), who has been receiving innumerable number of complaints from people across the country, regarding abuse of captive elephants when they were used by circuses to perform unnatural tricks, when paraded in festivals and forced to provide joy rides to tourists, to conduct this study. This study is meant to look into the existing scenario on training and use of elephants for exhibition, performance and other form of human entertainments and to recommend and advise the Ministry of Environment, Forest & Climate Change (MoEF&CC) with the necessary and urgent actions that need to be taken under the ambit of the law to protect captive elephants from any form of abuse, in the name of entertainment.

B. METHODOLOGY OF THE STUDY

Methodology of the study included researching the existing provisions of the law and landmark judgements of Honourable Supreme Court and High Courts, that protects elephants in captivity, evaluation of the AWBI inspection reports on captive elephants used by circuses, temples, private owners and tourism departments in the country, study the relevant scientific articles on use of captive elephants for entertainment, examine the electronic and print media reports on casualties involving elephants and humans when used for such purposes and extract the precedents already set by Central and State government to prevent abuse of captive elephants in the country.

C. EXECUTIVE SUMMARY

Article 48-A and Article 51-A (g) of the Indian Constitution says that, it is our responsibility to protect, improve and safeguard the wildlife of the country, including elephants in captivity.

Prevention of Cruelty to Animals Act, 1960 confers rule-making powers on the Central Government. The well-being and welfare of the animals is the dominant intention of the PCA Act and with that intention it has conferred duties on the person in-charge or care of the animals and correspondent rights on the animals. Section 11 confers obligations on all persons. Sections 21 and 22 refer to exhibition and training of animals for performance. Sections 3, 11 or 22 do not confer right on human beings to over-power an animal while he/she is performing. World Health Organization of Animal Health (OIE), of which India is a signatory and member, in its guidelines, recognizes five internationally recognized freedoms for animals. Through a joint statement, following Prime Minister Modi and Prime Minister Cameron's meeting in London during United Kingdom-India Summit 2015, both the countries committed to improve the protection for captive elephants.

Various provisions of PCA Act and Wildlife Protection Act, 1972 are being violated when elephants are used in performances like circuses, paraded in events and used for joy rides. Honourable Supreme Court of India, Kerala High Court and Delhi High Court had given landmark judgements on central government notification banning wild animals, except elephants in circuses. The Jallikattu judgement by the Supreme Court also recognized 'five fundamental rights' of animals, including the right to live with dignity.

Elephants suffer in captivity and when they are forced to perform such as in circuses, paraded during festivals and events and used for joy rides. It is evident from various inspection reports of AWBI that, the tricks the elephants are forced to perform are not in accordance with their natural instincts and that such use of elephants for performance and human entertainment are inherently cruel and often cause musculoskeletal injuries and diseases in elephants. Moreover, there are many reports of human and elephant casualties, when elephants reacted to such continuous abuse.

Study of scientific articles undoubtedly establishes that, elephants are only tamed, and never domesticated. The articles concludes that circuses, temples and private elephant sheds are an unsuitable environment for a wild animal like elephants and they fail to provide the basic social, spatial and health requirements. Elephants used for performance are forced to demonstrate unnatural behaviour and their ability to execute many natural behaviors are severely reduced. As a result, their welfare, health and reproduction are significantly compromised and they often display stereotypic behaviour, such as constant swaying and head-bobbing, which indicates serious mental distress and deterioration.

A good precedent has already been set by MoEF&CC through its notification dated 14.10.1998, which banned bears, monkeys, tigers, panthers, and lions from being exhibited or trained as a performing animals. MoEF&CC has declared elephants as National Heritage of Animal of India in 2010 and its appointed committee Elephant Task Force (ETF) on Project Elephant has already recommended banning elephants in circuses. Other set precedents include, AWBI deciding to stop registration of elephants for performance, CZA banning elephants in zoos and introducing strict regulations for exempted cases, Project Elephant Division stating that elephants

abused in circuses should be seized and housed in elephant camps or rehabilitation centres, Animal Welfare Division advising AWBI to take necessary steps to deregister the animals used in the circuses wherever cruelty is involved and the Chief Wildlife Wardens of the States confiscating more than 15 elephants from circuses for violation of laws.

AWBI, being the Prescribed Authority under Performing Animals (Registration Rules), 2001, may advise MoEF&CC to issue a central notification, with exercise of powers conferred to it by Section 22 of The PCA Act, 1960, to ban the training, exhibition and use of elephants for performances in India.

D. CONSTITUTIONAL PROVISIONS

1. **The State's responsibility with regard to environmental and animal protection has been laid down under Article 48-A of our Constitution, which reads as follows:** *"The State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country"*.
2. **Animal protection is a fundamental duty of every citizen of this country under Article 51-A (g) of our Constitution which reads as follows:** *"It shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures."*

E. IMPORTANT LEGAL DEFENITIONS

Terminology	Definition	Reference
‘captive animal’	"captive animal" means any animal (not being a domestic animal) which is in capacity or confinement, whether permanent or temporary, or which is subjected to any appliance of contrivance for the purpose of hindering or preventing its escape from captivity or confinement or which is pinioned or which is or appears to be maimed;	Section 2(c) of Prevention of Cruelty to Animals (PCA) Act, 1960
	‘Captive animal’ means any animal, specified in Schedule 1, Schedule II, Schedule III or Schedule IV, which is captured or bred in captivity	Section 2(5) of Wildlife (Protection) Act (WPA), 1972
‘domestic animal’	"domestic animal" means any animal which is tamed or which has been or is being sufficiently tamed to serve some purpose for the use of man or which, although it neither has been nor is intended to be so tamed, is or has become in fact wholly or partly tamed-	Section 2(d) of PCA Act
‘Exhibit’	" exhibit" means exhibit or any entertainment to which the public are admitted through sale of tickets	Section 21 of PCA Act
‘train’	"train" means train for the purpose of any such exhibition	Section 21 of PCA Act
‘performing animal’	‘performing animal’ means any animal which is used at, or for the purpose of any entertainment to which public are admitted through sale of tickets’	Rule 2(b) of the Performing Animals Rules, 1973
	‘performing animal’ means an animal which is used at or for the purpose of any entertainment including a film or an equine event to which the public are admitted”	Rule 2(h) The Performing Animal (Registration) Rules (PARR), 2001
‘ownership certificate’	‘ownership certificate’ means a certificate granted under Section of 42 of the Wildlife (Protection) Act, 1972 (53 of 1972)	Rule 2(f) of PARR
‘circus’	‘circus’ means an establishment, whether stationary or mobile, where animals are kept or used wholly or mainly for the purpose of performing tricks or manoeuvres	Section 2(7-A) of WPA
‘notification’	‘notification’ means a notification published in the Official Gazette	Section 2(22) of WPA
‘prescribed authority’	‘prescribed authority’ means the Central Government or such other authority including Board or State Government, as may be authorised by the Central Government	2(g) of PARR

F. LEGAL PROVISIONS

1. Rule-making Powers of the Central Government

It is pertinent to state that Section 38 of the Prevention of Cruelty to Animals (PCA) Act 1960 confers rule-making powers on the Central Government and, in exercise of its rule-making powers, the Central Government made the Performing Animal Rules, 1973 and the Performing Animals (Registration) Rules, 2001.

2. Legal and Other Obligations

- a) The well-being and welfare of the animals is the paramount and dominant intention of the PCA Act and with that intention it has conferred duties on the person in-charge or care of the animals and correspondent rights on the animals, under Section 3 of PCA Act. Section 11 confers obligations on all persons, including persons-in-charge or with care of the animals to see that Section 3 has been fully obeyed. Exemptions to Section 11 have been provided in sub-section (3) on the doctrine of necessity.
- b) Section 22 of PCA Act, which deals with “performing animals”, has to be read along with Sections 3, 11(1), 11(3) of the Act. Sections 21 and 22 refer to exhibition and training of animals for performance. Sections 3, 11 or 22 do not confer right on human beings to over-power an animal while he/she is performing, on the other hand, under Section 11(m), treating animals cruelly “solely with a view to providing entertainment” is an offence.
- c) World Health Organization of Animal Health (OIE), of which India is a signatory and member, acts as the international reference organisation for animal health and animal welfare. Chapter 7.1.2 of the guidelines of OIE, recognizes five internationally recognized freedoms for animals, such as: (i) freedom from hunger, thirst and malnutrition; (ii) freedom from fear and distress; (iii) freedom from physical and thermal discomfort; (iv) freedom from pain, injury and disease; and (v) freedom to express normal patterns of behaviour. These five freedoms, are considered to be the fundamental principles of animal welfare and are represented through various requirements in Sections 3 and 11 of PCA Act. These rights for animals ought to be on a similar footing as rights guaranteed to the citizens under Part III of the Constitution of India. Indian government has the obligation to review and decide whether using wild animals like elephants for performance severely deprive these animals from the five freedoms.
- d) A joint statement between the United Kingdom and India following Prime Minister Modi and Prime Minister Cameron's meeting in London during United Kingdom-India Summit 2015, under the heading ‘A Global Partnership’ says that *“The two Prime Ministers noted the importance of preserving the environment and sustaining diverse ecosystems, and recognised the rise of international criminal networks engaged in the wildlife trade. They resolved to work together to combat the illegal wildlife trade and to improve protection for both captive and wild Asian elephants. India endorsed the London Declaration and Kasane Statement on Illegal wildlife Trade”*. The Indian government has the obligation to comply with the commitment of fighting the illegal wildlife trade and improving the protection of captive and wild elephants. The joint statement is enclosed as **Annexure-1**.

3. Apparent Violation of Laws With Respect to Use of Captive Elephants as Exhibits and for Performance:

It has been observed that the use of elephants in any form of performance inherently violates statutory provisions of the PCA Act 1960, Performing Animal Rules, 1973,

the Performing Animals (Registration) Rules, 2001, Wildlife Protection Act, 1972, Recognition of Zoo Rules, 2009 and the guidelines issued on care and management of captive elephants by CZA and Project Elephant Division of MoEF&CC. Numerous AWBI inspections of captive elephants used in circuses, festivals and other public entertainment events have proven this point beyond a doubt.

- a) Physical punishment using ankus and other sharp instruments is a common practice to inflict fear and pain in the elephants, so as to make them stand still as an exhibit or to force them to perform or parade. The use of such weapons is in apparent violation of Section 11 (1) (a) of the PCA Act which states that, it is cruelty and a punishable offence if anyone *“beats, kicks, over-rides, over-drives, over-loads, tortures or otherwise treats any animal so as to subject it to unnecessary pain or suffering or causes, or being the owner permits, any animal to be so treated.”* The Rajasthan High Court in 2010 and Chief Wildlife Warden (CWLW) of Kerala in 2015 had prohibited the use of the iron ankuses, but they are still being carried by mahouts, ridiculing these orders. In fact, iron ankus tools can still easily be found in the hands of most mahouts who control elephants used for exhibitions and performances in India – they are often kept under cloth near the elephant's neck or in seating boxes placed on the elephants' backs. Elephants used to be exhibited and for performances can commonly be found with wounds from being hit or jabbed by these weapons.
- b) It is evident that many elephants with impaired vision and very thin body condition, and suffering from untreated wounds, abscesses, nail cracks, foot rot and other foot problems are forced to perform such as to parade or are exhibited in apparent violation Section 11 (1) (b) of PCA Act, which states it is cruelty and a punishable offence if anyone *“(employs in any work or labour or for any purpose any animal which, by reason of its age or any disease) infirmity; wound, sore or other cause, is unfit to be so employed or, being the owner, permits any such unfit animal to be employed.”*
- c) The elephants in circuses and in private ownership are excessively restrained and hobbled with short heavy chains without any soft covering in an apparent violation of Section 11 (1) (f) of PCA Act which states that it is cruelty if any person *“keeps for an unreasonable time any animal chained or tethered upon an unreasonably short or unreasonably heavy chain or cord.”*
- d) The elephants in circuses and in private custody are not provided an opportunity for adequate exercise and walks, which can be blamed on the irresponsibility of custodians, the space constraints at their facilities and the public safety challenges. This treatment can be understood to be in apparent violation of the purpose of Section 11 (1) (g) of PCA Act, which states that it is cruelty if anyone, *“keeps for an unreasonable time any animal chained or tethered upon an unreasonably short or unreasonably heavy chain or cord; or (g) being the owner, neglects to exercise or cause to be exercised reasonably any dog habitually chained up or kept in close confinement.”*
- e) The observations during inspections indicate that elephants in circuses and in private custody are not being provided with adequate housing conditions and drinking water which is an apparent violation of Section 11(1)(h) which states that it is cruelty and a punishable offence if anyone, *“being the owner of (any animal) fails to provide such animal with sufficient food, drink or shelter”*. This along with lack of provision of necessary veterinary treatment and foot care services is also an apparent violation of Section 42 of the Wildlife (Protection) Act (WPA), 1972 which mandates that adequate facilities for housing, maintenance and upkeep of the animal should be ensured so as to keep custody of a captive wild animal.

- f) Many elephants in circuses and in private custody have been found to have a mutilated ear, possibly caused by rampant use of ankus, a torture weapon banned by Rajasthan High Court and Kerala forest department as explained above. Mutilating any body parts of an animal is an apparent violation of 11 (1) (l) of PCA Act, which states that it is cruelty and a cognisable offence, if anyone *“mutilates any animal or kills any animal (including stray dogs) by using the method of strychnine injections, in the heart or in any other unnecessarily cruel manner or;”*
- g) As per AWBI inspection reports, many elephants used for performances such as in circuses are not registered with AWBI, and many are forced into performing unregistered, unnatural tricks, which go against the animals’ basic instincts. Using animals for performance without being registered with AWBI is an apparent violation of Section 23 (1) of PCA Act which states that *“Every person desirous of exhibiting or training any performing animal shall, on making an application in the prescribed form to the prescribed authority and on payment of the prescribed fee, be registered under this Act unless he is a person who, by reason of an order made by the court under this Chapter, is not entitled to be so registered”* and Rule 3(1) of PARR, 2011 which states that *“Any person desirous of training or exhibiting a performing animal shall, within thirty days from the commencement of these rules, apply for registration to the prescribed authority and shall not exhibit or train any animal as a performing animal without being registered under these rules.”* Forcing elephants to perform tricks unnatural to the species apparently violate the Rule 8(1)(vii) of Performing Animals (Registration) Rules (PARR), 2001, which state that *“the owner shall train an animal as a performing animal to perform an act in accordance with its basic natural instinct.”* Physical abuses which are common and inherent when elephants are exhibited, paraded or forced to perform, also violate the Rule 8(1)(v) of the PARR, 2001, which mandates that *“the owner shall ensure that any animal is not inflicted unnecessary pain or suffering before or during or after its training or exhibition.”* Though Rule 8(1)(vii) of PARR states that *“the owner shall not make a performing animal perform if it is sick or injured or pregnant”* many physically and mentally unfit elephants are used for exhibition and for performance in India, in apparent violation of the said Rule. Rule 8(1)(i) of PARR mandates that, *“every owner who has ten or more such performing animals shall have a veterinarian as a regular employee for their care treatment and transport”*. Most of the AWBI inspected circuses with more than 10 animals had no full-time veterinarian. Many circuses also failed to submit the mandatory monthly reports to AWBI in apparent violation of Rule 12 of PARR which states that *“Submission of report by veterinary doctor - Every person who has been granted registration under these rules shall ensure that a monthly report of all the performing animals in the form to be specified by the prescribed authority in respect of their health, deaths and births duly certified by a veterinary doctor is submitted to the prescribed authority on or before the 7th of every succeeding month.”*
- h) Many circuses houses in India house elephants and use them as exhibit and for performance, irrespective of not having the required recognition from Central Zoo Authority (CZA) as ‘captive animal facility,’ in apparent violation of Section 38H(3) of Wildlife Protection Act (WPA), 1972 which states that *“Every recognition shall specify the conditions, if any, subject to which the applicant shall operate the zoo.”*
- i) The AWBI inspection reports proves that, many elephants used for exhibition and performance do not have a valid Ownership Certificate as mandated by Section 42 of WPA and that, Ownership Certificates issued to many elephants in circuses and

to private custodians are illegitimate since they were not issued within 30 days of enactment of the WPA 1972 or during the 180 days amnesty period offered by Central Government to declare wildlife as per The Declaration of Wildlife Stock Rules, 2003. There is evidence to prove that many circuses and other private custodians have sold or transferred the custody of their elephants without the permission of Chief Wildlife Warden and many elephants are missing at the circus, in apparent violation of Section 40 and 43 of the WPA. Numerous inspections done by AWBI have pointed out that the majority of the people keeping captive elephants in India do not have the required 'ownership certificate' as mandated by the WPA. Since most of the captive elephants do not have a valid Ownership Certificate, it may be assumed that the elephants could be captured from the wild and traded illegally in an apparent violation of section 9 of WPA that prohibits hunting/capture of scheduled I animals such as elephants.

- j) Rule 11 of the Recognition of Zoo Rules, 2009, which mandates maintenance of records and submission of inventory is apparently often violated by the circuses.
- k) Many of the circuses with elephants failed to adhere to the conditions stipulated by the CZA in its 'Questionnaire for Evaluation of Circuses' which mandates that, *"The Circus Operator should ensure minimum area of 48 sq mts with the provision of shade of 5.5 mts high as feeding cum retiring area for each elephant," "The ground provided for housing elephants should be kuccha made of mud," "The elephants should be kept tied only in one leg with chain/ rope covered by leather tubes, the legs for tying may be changed alternately," and "Daily walk/exercise for at least two hours in the early morning hours should be given to all the elephants."*
- l) Many circuses apparently also violate numerous provisions of 'Guidelines for Care and Management of Captive Elephants' issued by Project Elephant Division of the Ministry of Environment, Forests and Climate Change (MoEF&CC) to State Chief Wildlife Warden (CWLW) in 2008, which states that *"keeping for unreasonable time, an elephant chained or tethered upon an unreasonable short or unreasonably heavy chain or cord"* and *"failing to provide an elephant, with sufficient food, drinking water or shelter"* is tantamount to cruelty to the elephant. The guideline also mandates that *"[n]o owner shall permit the use of nylon ropes or chains/hobbles with spikes or sharp edges for tying the elephants,"* and *"using heavy chains and hobbles with spikes or sharp edges or barbed wires for tying elephants"* shall be considered an act of cruelty to elephants and is prohibited.

4. Judgement of Honourable Supreme Court of India on Central Government Notification of 1998, Banning Use of Bears, Monkeys, Tigers, Panthers and Lions for Performance

The main challenge in these appeals is as to the validity of Section 22 of the Act and the notification issued under Section 22 to the effect that no person shall train or exhibit any animals specified therein namely, bears, monkeys, tigers, panthers and lions. The impugned notification was issued on 2nd March 1991. This notification was challenged by the Indian Circus Federation before the High Court of Delhi. By an Order, dated 21st August 1997, a Division Bench of the High Court required the Government of India to have a fresh look at the notification after taking into account materials placed before it by the Petitioners therein and other authorities. Accordingly a committee was constituted with eminent persons in the field of wildlife and animal welfare. The Committee gave a detailed report and in pursuance there to the impugned notification of 1998 was issued. The notification was challenged in a Writ Petition in the Kerala High Court. The High Court upheld the validity of the notification. It was held that in exercise of the judicial review it was not possible for the courts to

examine the correctness of the decision of the Government in issuing the notification. The Writ Petition was dismissed. The Judgment was challenged in appeal under Special Leave in Supreme Court.

A remarkable precedent was set by Hon'ble Supreme Court of India vide order dated 01.05.2001 on CA.3609-3620 /2001, in the matter of Nair, N.R. and Ors. Vs. Union of India (UOI) and Ors, which stated that, "*We agree with the decision of the High Court that in exercise of judicial review neither the High Court nor this Court can go into the correctness of the decision of the Government in issuing the impugned Notification. We are not satisfied that the Government acted irresponsibly or did not take into consideration the relevant materials which were available to it. A High Powered Committee had been constituted under the directions of the High Court, that Committee looked into all the evidence which was placed before it and the High Court has referred to extracts thereon which shows the manner in which the animals are trained or illtrained. We need not make any further observations in respect thereof except to hold that we are satisfied that the impugned Notification is within the parameters of the Prevention of Cruelty to Animals Act, 1960.*" Supreme Court thereby upheld the well reasoned order of the Kerala High Court dated 05.06.2000 on O.P. Nos. 155, 1066, 2187 and 1141 & ors of 1999 in the matter of Nair, N.R. and Ors Vs. Union of India (UOI) and Ors. The Supreme Court judgement is enclosed as **Annexure-2.**

5. Judgement of Honourable Kerala High Court on Central Government Notification of 1998 Banning Use of Bears, Monkeys, Tigers, Panthers and Lions for Performance

As mentioned above, the Kerala High Court, through its order dated 05.06.2000 on O.P. Nos. 155, 1066, 2187 and 1141 & ors of 1999, in the matter of Nair, N.R. and Ors. Vs. Union of India (UOI) and Ors held that, the impugned notification [14.10.1998] has to be upheld in furtherance of the object of the fundamental duty of a citizen to have compassion for animals and to refrain from inflicting unnecessary pain and suffering on them. The judgment states "*In conclusion, we hold that circus animals are being forced to perform unnatural tricks, are housed in cramped cages, subjected to fear, hunger, pain, not to mention the undignified way of life they have to live, with no respite and the impugned notification has been issued in conformity with the changing scenario, values of human life, philosophy of the Constitution, prevailing conditions and the surrounding circumstances to prevent the infliction of unnecessary pain or suffering on animals.*" The Kerala Court judgement is enclosed as **Annexure-3.**

6. Judgement of Honourable Delhi High Court on Central Government Notification of 1991 Banning Use of Bears, Monkeys, Tigers, Panthers, Lions and Dogs for Performance

As mentioned above, the High Court of Delhi through it vide order dated 16.12.1998, on C.M. No. 12105/98 in C.W.P. No. 890/91, in the matter of Indian Circus Federation and Anr. Vs. Union of India (UOI) and Anr stated that, "*The impugned Notification is based on relevant material as detailed above including the one that in the circuses animals are confined in cages and their transportation is also done in cages. It prima facie appears to us that when the Government, upon consideration, of the report, which is based on relevant material, has formed an opinion & issued the Notification dated 14.10.98 which bans the exhibition and training of the animals namely, Bears, Monkeys, Tigers, Panthers & Lions, there is hardly any justification to stay the operation of the Notification. To hold a view other than this would amount to*

substituting the opinion of the Central Government on the subject with our own which we are not inclined to do.” The Delhi High Court judgement is enclosed as **Annexure-4.**

7. Judgment in the Jalikattu/ Bullock Cart Race Case:

In what is now popularly known as the Jalikattu case or Special Leave Petition (Civil) No.11686 of 2007 in the matter of Animal Welfare Board of India Vs A. Nagaraja, it was observed that Appellate Court recognized ‘five fundamental rights’ of animals, including the right to live with dignity. The Supreme Court further held that the PCA Act must be read in conjunction with Article 51A(g) and 51A(h) – the ‘magna carta’ of animal rights. Moreover, the Court held that “all forms of life, including animal life ... fall within the meaning of Article 21 of the Constitution”. It was also observed, “Rights guaranteed to the animals under Sections 3, 11, etc. are only statutory rights. The same have to be elevated to the status of fundamental rights, as has been done by few countries around the world, so as to secure their honour and dignity.” The Supreme Court further held that “five freedoms, as envisaged by the World Health Organization of Animal Health (OIE) as already indicated, are considered to be the fundamental principles of animal welfare and we can say that these freedoms find a place in Sections 3 and 11 of PCA Act and they are for animals like the rights guaranteed to the citizens of this country under Part III of the Constitution of India.”

G. ANIMAL WELFARE CONCERNS

1. Plight of Elephants in Captivity in General

Elephants are forest animals, yet they have been brought into cities to be used for rides in the sun for long hours, walk on pavement which burns their feet, or to be used in performances which they would find difficult, unnatural and confusing. They are often kept thirsty and malnourished with handlers who are either unaware, or unwilling, to provide them sufficient food and drink.

Elephants are highly intelligent social animals. In nature, they spend about 18 hours a day walking, feeding, bathing in watering holes and interacting with other elephants, and females live in close-knit family groups for life. In captivity they are kept constantly chained, unable to take a step in any direction and many of these intelligent animals are driven insane as a result, expressing their immense frustration through repetitive swaying, rocking and head-bobbing—behaviours common in captivity but not prevalent in the wild. They commonly suffer from potentially deadly foot ailments, as well as untreated skin problems, eye infections, and cataracts. The chains hurt their legs and cause painful wounds and pressure sores that commonly become infected. Many elephants used for exhibition and in performances suffer from arthritis and foot rot because of a lack of exercise and because they have been forced to stand on *concrete floors for long hours* in their own urine and dung.

Before these elephants are brought to cities, circuses and tourist sites, they are typically separated from their mothers and other members of their family group and then subjected to long confinement in a *kraal* (a heavy wooden enclosure) or tied with chains between trees or poles. Their spirits are then broken through constant beating, jabbing with iron ankuses and other physical and mental torture, including punishments like starvation, thirst and sleep deprivation. Elephants even within *kraals* are often tied tightly with ropes in order to keep them immobile. When the elephants try to escape, they injure themselves and are punished with blows by *mahouts* for attempting to break free. The purpose behind such training is to abuse the elephants until they lose hope of escaping or being reunited with their families and they stop attempting to defend themselves and begin to obey commands. However, even with such constant abuse, adult elephants are difficult to tame, and so they are abused even more upon capture. After such training, elephants continue to suffer physical abuse by mahouts to keep them under control. India has approximately 3,500 captive elephants, many of whom are used in circuses and temples.

2. Plight of Elephants When Forced to Live and Perform in Circuses

The AWBI authorised a team in 2012 to inspect 16 circuses in India in order to gain an understanding of the living conditions of captive elephants and other animals used by them. Of the 16, 14 circuses had elephants registered with them. The inspection revealed that elephants used by circuses are kept constantly chained except when forced to perform under the threat of being hooked, hit or prodded with weapons such as iron ankuses, spears or nail-tipped sticks. Even visually impaired elephants were found to be used. Many elephants showed signs of severe frustration through constant head-bobbing and swaying—conditions not seen in healthy animals in nature. The inspection findings demonstrated that, in addition to cruelty which is inherent, apparent violations of the PARR, 2001, The Prevention of Cruelty to Animals (PCA) Act, 1960; The Indian Wildlife (Protection) Act, 1972; and ‘Guidelines for care and management of captive elephants’ issued by MoEF&CC to protect elephants are

rampant. A copy of the AWBI's inspection report on elephants in circuses is enclosed as **Annexure-5**.

It is pertinent to note that as per the information dated 21.10.2015 received from Central Zoo Authority (CZA) (**Annexure-6**) there are 67 elephants left with circuses in India and most of them are aged between 40-50 years. Most of these elephants are already suffering from joint diseases, poor diet, impaired vision etc, and most of them are unfit for any work. The chances of the circus getting any more young elephants for performance is nearly impossible since the Wildlife Protection Act prohibits hunting and commercial trade of captive elephants, and young abandoned elephant calves trapped in pond or well rescued by the forest departments are retained in the forest camps only. AWBI has already decided to stop registration of elephants for performance under Performing Animals Rules in view of huge cruelties and abuse suffered by them. Moreover, elephants are wild animals who can only be tamed and not domesticated, thus training involves physical punishments, and since trainings comes under the purview of Performing Animals Registration Rules, AWBI of course is unable to approve inherently cruel training methods. Because of these reasons, the use of wild animals in circuses is already a dying activity.

Numerous countries around the world have banned the use of all wild animals in circuses, and an increasing number of countries have banned all animal acts in circuses, based on eco-centric principles and in recognition of the rights of these animals. Countries, such as Austria, Belgium, Colombia, Costa Rica, Ecuador, El Salvador, Estonia, Hungary, Israel, Norway, Panama, Paraguay, Peru, Poland, Singapore, Slovenia, Bosnia and Herzegovina, Malta, Cyprus, Bolivia, Greece and Spain have banned the use of all wild animals. A copy of the list updated and published by Animal Defenders International (IDI) on worldwide circus bans is enclosed as **Annexure-7**.

Human-only circuses using willing adult human participants are now gaining popularity in India and around the world. During the above-described inspection of AWBI, it was found that the Great Champion Circus operates successfully without making animals perform. Another Indian circus also conducts shows inside theatres, and the internationally renowned Cirque du Soleil, among the most famous circuses in the world, uses only human performers. Following legal action initiated by AWBI, many Indian circuses, such as Grand Circus, New Rambo Circus, World Champion Circus, Great Indian Circus, Great Kamal Circus and Rajkamal Circus have signed an affidavit promising never to use animals again and pledged to become an animal-free, human-only circus.

3. Plight of Elephants When Forced to Perform Acts/Tricks That Are Not Approved By AWBI And Are Not in Accordance with the Natural Instincts of the Animal:

Various inspections of circuses done by AWBI revealed that, elephants were forced to perform acts that are not in accordance with the natural instinct of the species, as mandated by the Performing Animal Registration Rules, 2001. Annexure I of the Performing Animal Registration Certificate the AWBI issues to circuses lists the general nature of planned performances involving animals, including what the animals will perform, the number of animals participating in the acts and the duration of the acts. Circuses can only showcase acts listed in Annexure I of their AWBI Performing Animal Registration Certificates. During the inspections, it was discovered that numerous circuses were exploiting elephants by making them perform tricks that are

not approved by AWBI. In all the unregistered performances, elephants were forced to perform unnatural, dangerous tricks. One frequently unregistered act involves elephants being forced to climb and balance on a circular podium while an acrobat performs on the pachyderm's back or while suspended from the animal's trunk. In the Amar Circus, an elephant was forced to balance herself on one foot while perched on a circular podium, and in the Jamuna Circus, an elephant was forced to stand on her hind legs (forelimbs suspended in the air) on a tiny podium while an acrobat sat on the pachyderm's back. It is observed that, so as to make elephants perform all kinds of tricks, they were physically abused, where the elephants were brazenly hit with wooden sticks, and were repeatedly poked and hit on ears, feet and stomach with sticks having pointed metal tip and ankus, often piercing their feet. This indicates that cruelty is inherent when elephants are forced to perform. A detailed evaluation of acts or tricks which the elephants in circuses are forced to perform and their accordance with natural instincts of the species can be seen at **Annexure-8**.

4. Plight of Elephants When Forced to Perform in Temple Festivals Using Cruel Training Methods & Reinforcement of the Learning Through Physical Punishments

The AWBI inspection reports on elephants used for parading during temple festivals establishes that, extensive training is required so as to make a wild animal like elephants perform acts such as, sitting down bending their knee, keeping the tusk & trunk touching the ground, bending the head & body down, and lifting the hind leg so as to carry out procedures such as, allowing people to climb up, transfer the replica of deity to the priest sitting on top of the elephant and to allow the riders to get down to the ground, respectively. None of these activities are natural to the behaviour of the elephants, and requires extensive training, often done through punishment using verbal and physical cues. During temple festivals, the elephants are forced to hold their head high so that they stand out, for which the mahouts keep on touching or poking the lower jaw of the animals with a weapon, and it requires training of the elephants. During the two days Thrissur Pooram, more than 40 caparisoned elephants were exhibited with 3-4 people standing and sitting on their back, with a total restriction on their movement for more than 3 hours. These activities also require training through punishment and are often reinforced through verbal and physical cues. During the 'Upacharam Chollal' (bidding farewell) ceremony of the Thrissur Pooram, to mark the end of 36 hour long event, two elephants carrying the deities were forced to raise their trunk as a gesture of farewell. Forcing these elephants to make such acts requires training, and is done through punishment and often reinforced through verbal and physical cues. It was also observed that more than a ritual, the use of elephants during temple festivals is solely for public entertainment purpose as these animals are not an essential part of the religious rituals. Though there is no ticketing for the public to attend temple festivals, it is a well-known fact that the temple management pay for the hiring charges of these elephants on behalf of the devotees and visitors, which explains the commercial nature of the event.

The elephants are also trained to climb up and get down from a truck when they are frequently transported to different parts of the State and hired by temples for various festivals. Anayottam or elephant race, an annual event organised at the Guruvayur Sri Krishna Temple in Guruvayur, Thrissur district, involves forcing elephants to race which also requires training, verbal and physical cues for reinforcement for the learning. The ritual of 'aanavaalpidi' (catching the elephant's tail) at Umayanallur Sree Subramanyaswamy Temple in Kollam district Kerala involves a tusker running for about one hundred meters with a crowd of devotees behind it trying to catch his tail.

The performance subjects elephants to abuse. ‘Vilikku aane’ (forcing the elephant to vocalise) is a common practice, when elephants are brought to the temple for the festival. It is considered that, the elephants are asked to offer prayers to the deity by lifting the trunk and trumpet. The mahouts train them to vocalise, using physical cues and punishment techniques for the reinforcement of the learning. A write up with photographs explaining the training, exhibition, and use of elephants for performance and entertainment is enclosed as **Annexure-9**.

5. Plight of Elephants When Exhibited and Paraded During Festivals and Other Events

Following the 2010 order of Rajasthan High Court which which banned the use of iron ankush and directed the implementation of a proposed guideline, the Government of Rajasthan through a directive mandated that elephants used in functions, sports, events, exhibitions or any other performances must apply for registration with AWBI under PARR, 2001. Because of AWBI’s intervention, the ‘Elephant Festival’ planned by Rajasthan Tourism Department, for which no elephants were registered with the AWBI, was stopped by AWBI in 2013 and 2014. However, AWBI has been receiving numerous complaints regarding illegal events organised by private agencies, in which elephants are exhibited and paraded solely for human entertainment, without the approval of AWBI.

AWBI had written numerous times to the Kerala State Government to comply with the requirements of PARR, 2001 when elephants are used in temple festivals and other events. The AWBI inspection reports on elephant parades during temple festivals in Thrissur and Palakkad in Kerala, clearly establishes that, public exhibition and parading of the caparisoned elephants for entertainment, forcing them to perform certain ceremonial acts such as lifting of head and trunk as a gesture, and the training involved to make them sit, lower the head and trunk, flex and extend the legs so as to allow the riders to climb up and to get down, comes under the purview of PARR and thus require registration of the elephants with the AWBI.

The AWBI inspection of temple festivals in Kerala revealed that, prohibited weapons like ankus were rampantly used against the elephants by their mahouts and many of the elephants suffered from painful abscesses, marks of injuries on legs from constant chaining, impaired vision, cracked nails and wounds that were deliberately hidden with black material. The elephants were chained by all four legs preventing any movement under the threat of physical punishment and forced to stand for many hours, with no protection from the hot sun, and were denied adequate access to drinking water and food. The elephants were also forced to stand for long hours amidst the loud noise of drums, trumpets, pipes and cymbals and blaring noise of the crowd. And elephants who have history of killing people, were also paraded, risking public safety.

A copy of AWBI’s inspection report on captive elephants used for temple festivals in Thrissur and Palakkad are enclosed as **Annexure-10**.

6. Plight of Elephants When Used for Joy Rides

Cruelty is inherent when elephants are forced to provide joy rides. AWBI’s inspection of elephants used for tourism rides at Amer Fort in Jaipur proved that most of the elephants used were under illegal possession, and that injured and unfit elephants, including those visually impaired, were forced to work. It was also found that iron ankuses, which are prohibited by the Rajasthan High Court in 2010, were used, chains

or hobbles with spikes or sharp edges were used to restrain the elephants, the animals were continuously tethered or chained by more than one foot, their ears had been mutilated, most of them have serious foot ailments, and many were engaging in stereotypic behaviour, such as constant swaying, head-bobbing, etc. Such behaviour is the result of severe frustration and indicates serious mental distress and deterioration.

Similarly, the AWBI inspection report on elephants used for rides in Goa concluded that the elephants are under illegal custody, are unfit for work, are denied basic management care and are subjected to mental and physical suffering.

Though Kerala High Court has issued an order in December 2014, directing that captive elephants used for tourism rides be registered with AWBI as per the PARR, 2001, irrespective of repeated reminders sent by the Board to all States & UTs, not a single application has been received so far, even from State forest departments which manage elephant camps and provide elephant safari rides.

A copy of the AWBI inspection reports on elephants in Jaipur and Goa are enclosed as **Annexure-11 and 12**.

7. Plight of Elephants When Used for Polo Matches

There are reports of illegal polo matches being organised in various parts of Rajasthan. In Jaipur elephant polo was played at Rambagh and Jai Mahal hotels, Dera Amber and City Palace. Captive elephants are routinely trained and disciplined with the use of ankuses (heavy rods that resemble fireplace pokers, with sharp metal hooks on the ends that are dug into the skin) when used for polo matches. In addition to being beaten, elephants used for polo are often kept outside in full sun with little shelter or water. When not “playing”, they are typically kept in chains.

In 2010, Guinness World Records Ltd decided to remove all references to elephant polo records from its iconic book *Guinness World Records* out of concern for the animals. Wrote Craig Glenday, the Guinness Book’s editor-in-chief, “Having read the correspondence, everyone at Guinness World Records is in agreement that we need to review all our records involving animals and ensure a strong stance on any involving even the hint of cruelty. For this reason, we have agreed to rest, among others, records for elephant polo.”The letter of Guinness World Records Ltd is enclosed as **Annexure-13**.

In 2011, Søren Lauridsen, managing director of Carlsberg India Pvt Ltd, a subsidiary of world-renowned Danish beermaker Carlsberg Group, announced that the company pulled its sponsorship of the Polo Cup, a much-criticised elephant polo match which was scheduled to be held in Jaipur.

Besides the AWBI advising Rajasthan government to stop such events, an awareness campaign was initiated by Times of India named 'Jumbo Cause'. As a result, in 2015 several stakeholders in the tourism business including Rambagh and Jai Mahal hotels and Dera Amber decided to issue an advisory against conduct of elephant polo matches. Many tour operators now claim to have informed foreign agents not to book any more tours promising elephant polo matches in Rajasthan. However, in the absence of any enforced legislation, elephant polo matches are still being organised by many tourist agencies in the State.

H. RISKS TO HUMAN HELATH

According to figures compiled by the Heritage Animal Task Force, captive elephants killed 526 people in 15 years in Kerala alone. The reports of increasing numbers of elephant attacks when paraded during temple festivals and the findings of AWBI inspections of elephants in Kerala regarding the use of ankuses (hook-like weapons with a sharp metal spike on the end) and chains with painful spikes, injured elephants forced to work, elephants denied adequate veterinary care, etc, have proved beyond a doubt that cruelty is inherent in keeping elephants in captivity and forcing them to perform acts that are not natural to them.

Kerala's Elephant Lovers' Association reports that during the period from 1998 to 2010, captive elephants have killed 212 people in Kerala alone – the majority of them *mahouts*. The study report ‘**Mortality of mahouts by captive Asian elephants in Kerala, southern India- Investigations into the Incidents of Elephant killing/Injuring Mahouts, Running amok and Perceptions of Mahouts towards their Profession**’ by Surendra Varma, T.S.Rajeev, Marshal.C.Radhakrishnan and K.R Rajesh states that “As we classify incidents into death, injury, property damage, running amok and combination of each of these incidents, percentage of death dominates (22.6%) followed by the combination of injury and running amok (19.4%). Within each category of incident, a pattern of 65% of running amok, 62% of injury, 53% of property damage and 44% of human deaths can be observed. Elephants belonging to private owners were responsible for maximum (70%) incidents followed by temples (24%) and others (6%). The origin of the animals responsible for these incidents gave interesting insights. Elephants brought from the state of Bihar contributed more to such incidences. Locations of incidents were mostly in public places (68%) followed by festival grounds (21%). Elephants kept alone appeared to be responsible for 53% of such incidents. Animals kept along with other elephants also contributed to the incidents almost equally, suggesting both categories of animals are prone to such incidents.” The report is enclosed as **Annexure-14**.

Given below are the statistics on human and elephant casualties in Kerala from 2012 to 2016 (up to 12 April) compiled from news reports by Heritage Animal Task Force, a Kerala-based Non Government Organisation working for elephant welfare, when elephants were paraded in festivals and other events, and when they reacted to continuous abuse. The actual numbers are likely to be much higher as many incidences go unreported.

SI No	Fact	Year					Total
		2012	2013	2014	2015	2016*	
1	People killed by captive elephants	49	10	7	17	9	92
2	Incidents of elephants running amok	816	1,264	2,011	3056	246	7393
3	Number of elephants who ran amok	298	306	310	382	73	1369
4	Elephant deaths	96	36	24	12	5	173

*Up to 12 April 2016

Source: Heritage Animal Task Force

There are serious health concerns as well. With no veterinary care or screening for infectious and zoonotic diseases through serological tests and no vaccination or treatment records to determine their medical histories, elephants in temples, circuses and under private ownership are at risk of carrying contagious diseases, such as tuberculosis, which is common in these animals, and which can be transmitted to humans. Because elephants are forced to interact with and "bless" devotees and provide joy rides, their health and that of the people around them are put at risk. The research paper "Serodiagnosis of Tuberculosis in Asian Elephants (*Elephas maximus*) in Southern India: A Latent Class Analysis by Shalu Verma-Kumar., David Abraham., Nandini Dendukuri, Jacob Varghese Cheeran, Raman Sukumar and Kithiganahalli Narayanaswamy Balaji concludes that "Our results provide evidence for high prevalence of asymptomatic *M. tuberculosis* infection in Asian elephants in a captive Indian setting. Further validation of these tests would be important in formulating area-specific effective surveillance and control measures." This research paper and a review article titled 'Tuberculosis Goes Wild: Emphasis on Elephants' by Karthik K are enclosed as **Annexure-15**.

I. FINDINGS AND RECOMMENDATIONS OF SCIENTIFIC STUDIES

1. **Article 1:** *'A review of the welfare of wild animals in circuses'* by Stephen Harris, Graziella Iossa & Carl D. Soulsbury at School of Biological Sciences, University of Bristol, a commissioned report published by Royal Society for Prevention of Cruelty to Animals, summarised the findings as:

- **“Domestication usually occurs over thousands of years and involves selecting fearless and tame animals. A low number of generations of wild animals have been bred in circuses. Even if there had been selection for tameness in circuses — and there is no evidence that there has — not enough has occurred for any wild circus animal to be considered domesticated.**
- Almost all captive animals are restricted in their ranging movements, their ability to socialise and pair as they would choose, and in the way they find and select food. In zoos more complex captive environments (naturalistic displays with appropriate substrates, plants, hiding places, perches, etc.) may be employed to mitigate behavioural problems stemming from captivity, and provide the animal with a diverse array of stimuli. Neither natural environment nor many highly motivated natural behaviours can be recreated in circuses.
- Complex environments cannot be set up in circuses because of frequent travelling and extremely small accommodation and exercise areas. Circus animals' lives are inevitably impoverished.
- The captive environment and performance can have adverse effects on an animal's health ranging from teeth abnormalities to problems with ligaments and unusual disease. Animal health in circuses is likely to be poor.
- The lack of appropriate social interaction, reduction in time spent foraging and the restricted freedom to perform many highly motivated behaviours represent stressors for captive animals. Stress can have short-term as well as chronic long-term behavioural and psychological effects. Through time this can induce poor welfare by compromising health altering brain function, reducing breeding potential and lowering life expectancy.
- The effects husbandry-related stress on an individual's reproduction can be severe and include: reduced or no reproductive life span; infanticide or abandonment related to social disruption or hand-rearing; high infant mortality; and reduced life expectancy. All of these problems are particularly severe for hand-reared animals; hand-rearing is likely to be common in circuses.
- Circus animal travel frequently. Many features of travel, such as forced movement, human handling, noise, trailer movement and confinement constitute sources of stress for captive animals. There is no conclusive evidence on whether animals habituate to frequent travel. There is, however, evidence that travel is stressful for captive animals and it may have adverse effects on reproduction.
- Circus animals spend the majority of the day confined in the “beast wagon”, about 1% of the day performing and the remaining time in exercise pens. They usually feed and move considerably less than free-living animals and spend a lot more time inactive or performing stereotypies.
- Most species stereotype more in circuses than in zoos. As stereotypies generally indicate sub-optimal environments, a higher degree of stereotyping in circuses may be considered indicative of poorer welfare.

- Behavioural and physiological parameters indicate that humane audiences have stressful effects on captive wild animals, and that this can have severe consequences for welfare.
- Hand-rearing, training and performance do not compensate for the unavoidable negative effects of a circus life. To the contrary: the evidence suggests that both hand-rearing and performing have deleterious effects on an animal's subsequent reproductive ability and health.
- **Current scientific knowledge suggest that animals suitable for circus life should exhibit low space requirements, simple social structures, low cognitive function, non-specialist ecological requirements and ability to be transported without adverse welfare effects. None of the wild species exhibited by circuses currently or in the past is close to meeting these criteria.**

The scientific article is enclosed as **Annexure-16.**

2. **Article 2:** The scientific paper '*Are wild animals suited to a travelling circus life?*' by G Iossa, CD Soulsbury and S Harris, at School of Biological Sciences, University of Bristol states, published in the journal *Animal Welfare* in 2009, in its abstract states:

“A comprehensive synopsis of the welfare of captive, wild (ie non-domesticated) animals in travelling circuses is missing. We examined circus animal welfare and, specifically, behaviour, health, living and travelling conditions. We compared the conditions of non-domesticated animals in circuses with their counterparts kept in zoos. Data on circus animals were very scarce; where data were absent, we inferred likely welfare implications based on zoo data. Circus animals spent the majority of the day confined, about 1–9% of the day performing/training and the remaining time in exercise pens. Exercise pens were significantly smaller than minimum zoo standards for outdoor enclosures. Behavioural budgets were restricted, with circus animals spending a great amount of time performing stereotypies, especially when shackled or confined in beast wagons. A higher degree of stereotyping in circuses may be indicative of poorer welfare. Inadequate diet and housing conditions, and the effects of repeated performances, can lead to significant health problems. Circus animals travel frequently and the associated forced movement, human handling, noise, trailer movement and confinement are important stressors. Although there is no conclusive evidence as to whether animals habituate to travel, confinement in beast wagons for long timeperiods is a definite welfare concern. Circuses have a limited ability to make improvements, such as increased space, environmental enrichment and appropriate social housing. **Consequently, we argue that non-domesticated animals, suitable for circus life, should exhibit low space requirements, simple social structures, low cognitive function, non-specialist ecological requirements and an ability to be transported without adverse welfare effects. None of the commonest species exhibited by circuses, such as elephants and large felids, currently meet these criteria. We conclude that the species of non-domesticated animals commonly kept in circuses appear the least suited to a circus life.**”

The scientific article is enclosed as **Annexure-17.**

3. **Article 3:** Statement on 'Ethological needs and welfare of wild animals in circuses', September 2015, by scientists with extensive research records in wildlife biology/ecology/ ethology, concluded that:

“Wild animals used in circuses are tamed, not domesticated, and evidence from literature demonstrates that circuses are an unsuitable environment for wild animals. For wild animals in general, circuses fail to provide some of the most basic social, spatial and health requirements. The ability to execute many natural behaviors is severely reduced, while the animals are obliged to perform unnatural behavior. As a direct consequence, their welfare, health and reproduction are significantly reduced.

Highly social animal species such as elephants and wide-ranging species like big carnivores are amongst the most popular species kept in circuses (Galhardo, 2005), whereas they also appear to be the least suitable to circuses (T. A. E. R. Project , 2008; Iossa et al, 2009). This has already been recognized in many countries across the world where (some or all) wild animals have become prohibited in circuses.”

The expert statement is enclosed as **Annexure-18**.

4. **Article 4:** ‘Section 6: Captive Elephant in Circus’ in ‘Captive Elephants in Kerala - An Investigation into the Population Status, Management and Welfare Significance’ by Surendra Varma, E.K. Easwaran, T.S. Rajeev, C. Marshal Radhakrishnan, S. R. Sujata and Nibha Namboodiri elaborates an investigation done to assess the welfare status of an adult female elephant maintained by the Royal circus when it was performing at Trichur and Palghat districts in Kerala. The report concluded that:

“Overall mean rating was 1.34 suggesting bad welfare conditions of the elephant kept in this circus. It is common knowledge that elephants in the wild especially females, live in groups of related individuals. The occurrence of “family groups” consisting of mothers and their offspring has been reported (Sukumar, 1994).

Despite this obvious feature of their lives, the maintenance of single, female elephants in un-natural physical conditions around human habitation with severe restriction on their ability to move freely even within a circumscribed surrounding is unwarranted. The physical and social environment experienced by elephants in the wild was conspicuous by its absence for this elephant.

Parameters in the “poor to bad” category:

- **Shelter: there was no provision of a suitable shelter.** The animal was exposed to sunlight as there was no shade available. Mean temperatures in both circus locations ranged from 25- 35°C (in the region of 40° C for Palaghat). Thermoregulation in large-sized mammals has been reported to be a function, among other variables, of the behaviour of the animal (Langman, 1996). Chaining of the elephant for more than 20 hours a day effectively reduced the animal’s ability to choose a suitable place for itself.
- **Water: use of buckets to provide water meant that the animal could not access it whenever it needed.** It had to depend on its handler to provide the same.
- **Social isolation: maintenance of a single animal ensured absence of conspecifics for interaction.** Coupled with this fact was the expression of stereotypy by the elephant. Stereotypy was exhibited in greater frequency among socially isolated elephants (Kurt and Garai, 2007). The expression of stereotypy is considered to be an indicator of poor welfare conditions.
- **The acyclic nature of an adult female represents an abnormal physiological condition of the animal.** Bearden and Fuquay (2000) report

that non- social stress can also lead to absence of normal oestrus cycles in females.

- Treatment of illnesses or injuries of the elephant depended on the availability of a veterinary doctor on site. **This implies absence of basic veterinary care for the animal, especially in case of an emergency.”**

The report is enclosed as **Annexure-19.**

5. **Article 5:** The scientific study ‘*Social Life of Captive Asian Elephants (Elephas maximus) in Southern India: Implications for Elephant Welfare*’ by Varadharajan Vanitha (Anbanathapuram Vahiara Charity (A.V.C.) College), Krishnamoorthy Thiyagesan (Anbanathapuram Vahiara Charity (A.V.C.) College) and Nagarajan Baskaran (Asian Nature Conservation Foundation) states that:

“Asian elephants in the wild live in complex social societies; in captivity, however, management often occurs in solitary conditions, especially at the temples and private places of India. To investigate the effect of social isolation, this study assessed the social group sizes and the presence of stereotypies among 140 captive Asian elephants managed in 3 captive systems (private, temple, and forest department) in Tamil Nadu, India, between 2003 and 2005. The majority of the facilities in the private (82%) and temple (95%) systems held a single elephant without opportunity for social interaction. The forest department managed the elephants in significantly larger groups than the private and temple systems. **Among the 3 systems, the proportion of elephants with stereotypies was the highest in temple (49%) followed by private system (26%) and the forest department facility (6%); this correlates with the social isolation trend observed in the 3 systems and suggests a possible link between social isolation and abnormal elephant behavior separate from other environmental factors.”**

It further states, “Elephants live in social groups in natural conditions. The social bond is very strong among females, who live in groups of related females and their offspring of both sexes (Moss, 1988; Vidya & Sukumar, 2005) and are led by the matriarch, the oldest female. The groups typically consist of six to eight individuals (Sukumar, 2003). Males leave the maternal herd around the age of 15. Male elephants lead mostly solitary lives. At times, however, the males join female herds for breeding; alternatively, or when not sexually active, they may join other males to form bachelor herds with weak social bonds (Desai & Johnsingh, 1995; Douglas-Hamilton, 1972; Sukumar, 1989).

Captive elephants, especially in the temple and private places, are maintained in conditions that do not even remotely resemble the social environment of their counterparts in the wild. For instance, a given temple or private owner generally maintains only one elephant (either a male or a female) in chains and isolation; thus, the elephant has no opportunity to interact socially or meaningfully with conspecifics.

In the wild, Asian elephants roam extensively on a day-to-day-basis, averaging 6–8 km a day, and engage in different activities that change according to season (Baskaran, 1998). In captive conditions, especially in temple and private systems, elephants often lack opportunities for exercise. Lacking a complex physical environment, they are confined to small enclosures, where monotonous daily routines usually do not vary year-round (Krishnamurthy, 1998; Vanitha, 2007). Such confinement, with the absence of conspecifics, has been documented to affect the

physiology and behavior of captive elephants and often leads to the development of abnormal stereotypic behavior (Clubb & Mason, 2002; Kurt & Garai, 2002). Stereotypy is defined as any movement that is performed repeatedly, is relatively invariant in form, and has no function or goal (Odberg, 1978). The common stereotypic behaviors performed by elephants in captive environments include weaving, head bobbing, trunk tossing, and pacing (Gruber et al., 2000; Rees 2004). This article compares the group sizes and proportion of elephants with stereotypic behaviors who were managed in three captive systems in Tamil Nadu during 2003–2005. Further, the article makes suitable recommendations for improving social interaction among conspecifics.”

The scientific article is enclosed as **Annexure-20.**

6. **Article 6:** The research article ‘*Variation in stereotypic behavior related to restraint in circus elephants*’ by *Terry Gruber* (University of California, Los Angeles), *Ted H Friend* (Texas A&M University) and *Jane M Packard* (Texas A&M University), published in *Zoo Biology*, January 2000 concluded that:]

“1. The probability of stereotypic behaviors was higher when elephants were leg-chained along a picket line on macadam than when restrained in small groups within electric fences placed on turf. 2. The effect of chained restraint differed among individual elephants, with the youngest elephants more likely to show stereotypic behavior and less likely to show ingestion or resting activities than the older elephants. 3. In contrast to chained restraint on macadam, the social and physical enrichment during penned restraint was associated with more species-typical behaviors.”

The scientific article is enclosed as **Annexure-21.**

J. THE PRECEDENT ALREADY SET BY CENTRAL AND STATE GOVERNMENTS

1. Ministry of Environment, Forests & Climate Change (MoEF&CC)

- a. **Central Notification of 1998:** In exercise of the powers conferred by section 22 of the PCA Act, 1960 (59 of 1960), and in supersession of the Notification of the Government of India G.S.R. No. 252 dated 02.03.1991 and G.S.R. No. 485 dated 07.08.1991, the Central Government through its notification dated 14.10.1998 had specified that bears, monkeys, tigers, panthers, and lions shall not be exhibited or trained as a performing animals. A copy of the notification is enclosed as **Annexure-22**. The central government notification dated 14.10.1998 is based on the recommendation of a high level expert committee, which concluded that cruelty is inherent in circuses and that wild animals undergo unnecessary pain and suffering when they are trained and forced to perform. The committee also pointed out that the circuses may never be able to achieve the standards of housing and upkeep that are desired for captive wild animals, as they are constantly on the move like a mobile zoo and no permission is given for mobile zoos in India.

- b. **Recommendations of Elephant Task Force on Project Elephant Appointed by MoEF&CC:** The Elephant Task Force (ETF) on Project Elephant constituted by the Ministry of Environment, Forest and Climate Change which comprised of 12 experts from a variety of disciplines, in its report 'Gajah- Securing the Future for Elephants in India' submitted on August 31, 2010 recommended that *"The usage of elephants in circuses and for collection of alms should be discouraged/ banned. Elephants reported to be used for such purposes should be seized. This category of circus/private owned elephants should follow the precedent of phasing out as per the 1991 ban of the five categories of wild animals (lion, tiger, leopard, bears and monkeys) in circuses."* The report also recommended *"Amendment of the Act by Addition: Consider provision for prohibition of the use of elephants in exhibitions, circuses, weddings, unregulated tourism, public functions, begging or for other entertainment."* The ETF on Project Elephant Office Memorandum is enclosed as **Annexure-23** and the ETF report is enclosed as **Annexure-24**.

- c. **Elephants declared as National Heritage Animal of India:** MoEF&CC also on 21 October 2010, in pursuance to the recommendation made by the Elephant Task Force on Project Elephant and approval by the Standing Committee of the National Board for Wildlife (NBWL) in its meeting held on 13 October 2010, declared elephants as National Heritage Animal of India, with the goal of stepping up measures for their protection. A copy of the order is enclosed as **Annexure-25**.

2. Animal Welfare Board of India, MoEF&CC

The meeting minutes of the 39th general meeting of the AWBI held in Chennai on 23 August 2013 stated that "The Board decided to stop registration of elephants for performance under Performing Animals Rules in view of huge cruelties and abuse suffered by them. The Board also decided that a proposal for inclusion of Elephants in the list of banned animals under The Performing Animals (Registration) Rules 2001 be sent to the Ministry for consideration and there should be no performing animals in circuses." The Board took this decision, being the 'Prescribed Authority' under PARR, as upheld by the Supreme Court of India in its 20 March 2009 judgement on Special Leave Petition (Civil) 21747 of 2007 in the matter of Indian Motion Pictures Producers Association Vs Union of India & Ors. and by the Bombay High Court in its 22 August 2005 judgement on Writ Petition (Civil) 2490 of 2004 in the matter of

PETA Vs Union of India & Ors. A copy of AWBI's 39th general meeting minutes is enclosed as **Annexure-26**.

3. Central Zoo Authority, MoEF&CC

The CZA banned the keeping of elephants in zoos in its circular dated 7 November 2009, which means that elephants cannot be used in circuses, either, since circuses are considered zoos under Section 38 (H) of the Indian Wildlife (Protection) Act, 1972. The CZA circular explained that the housekeeping of elephants in zoos leaves a lot to be desired and causes trauma to animals and also noted that elephants are large mega-herbivores, who range freely over long distances. Yet in zoos, they are kept chained for long hours, causing them stress. Furthermore, zoo elephants coming into *musth* pose a serious threat to visitors, and the day-to-day maintenance and housekeeping of elephants involves a tremendous financial liability, too. However, CZA during the Stakeholder Consultative Meeting on Elephants Upkeep in Zoos, 18 March 2013, allowed that, if zoos wish to keep elephants, they must provide them with a minimum of 1.2 acres of land per elephant – a condition that circuses which rent small plots of land in each city that they set up to perform in can never meet. A copy of CZA's 07.11.2009 directive and 18.03.2013 stakeholder consultative meeting minutes are enclosed as **Annexure-27 and 28** respectively.

4. Project Elephant, MoEF&CC

A circular issued to all chief wildlife wardens of the states and union territories on 3 July 2014 by the Project Elephant Division of the MoEF&CC recognised the plight of elephants in circuses and stated that their treatment was not humane and the conditions of their upkeep were often not adequate and even deplorable. The circular also stated that with the help of due process of the law, these animals should be seized and housed in elephant camps or rehabilitation centres. Project Elephant Division also offered assurance that it will provide financial assistance to establish facilities for the lifetime care of these elephants. A copy of the circular is enclosed as **Annexure-29**.

5. Animal Welfare Division, MoEF&CC

On 15 July 2014, a memo from the Animal Welfare Division of the MoEF&CC addressed to AWBI stated the following:

- (i) AWBI should take necessary steps to deregister the animals used in the circuses in a phased manner wherever cruelty is involved.
- (ii) AWBI should also make arrangement for rehabilitation of the deregistered animals.
- (iii) AWBI should not register any new animal hereafter.

A copy of the memo is enclosed as **Annexure-30**.

6. Chief Wildlife Wardens of States

CZA has so far has de-recognised 11 circuses as captive-animal facilities, including the Apollo, Asiad, Famous, Gemini, Jamuna, Jumbo, Moonlight, Nataraj, Olympic, Rajkamal and Rambo circuses. AWBI has cancelled Performing Animal Registration Certificate of 9 circuses who used elephants, including Great Prabhat, Asiad, Sam, Gemini, Jamuna, Rambo, Apollo, Rajkamal and Moonlight circuses. And based on the action taken by both CZA and the AWBI, Chief Wildlife Wardens of various States have rescued more than 15 elephants from seven circuses, including Gemini (4 elephants), Great Bombay (3 elephants), Jamuna (1 elephant), Moonlight (4 elephants), Rhino (1 elephant), Sonali (1 elephant) and Sam (1 elephant) circuses and have rehabilitated them to different elephant rehabilitation centres.

K. CONCLUSIONS

By simply living in captivity, wild animals like elephants can never be considered domesticated. Moreover there are evidences which suggest that, even in captivity, elephants are motivated to perform wild behaviours, resulting in them reacted to human abuse and going berserk, hurting and killing many people. Because of the mobile nature of the circuses, these establishments can never recreate the complex natural environment required by a wild animal like elephant, and hence the animals' life is unavoidably impoverished. Most of the tricks which the elephants in circuses are forced to perform are not in accordance with their natural behaviour, and they often cause joint and ligament diseases. Captivity and frequent travel also causes stress, compromises health, alters brain functions, and reduce the breeding potential and life expectancy of the elephants. For most of the elephants in circuses only 1% of their time is spent for performing unnatural tricks and the rest of the time is spent chained, on eating food and performing stereotypic behaviours, indicative of extreme mental distress. Behavioural and physiological parameters of elephants have indicates that, human presence often causes stress in them. Most of the circuses in India are small and financial difficulties are widespread. This is often revealed in the form of non-availability of adequate nutrition of animals, lack of quality veterinary care and no treatment and poor animal husbandry practices, such as foot care.

Situation is not different for captive elephants who are under the private custody of people and used for parading during festivals and other events. They too suffer when used for such performances.

The existing animal protection laws of the country prohibit any training, exhibition and use of elephants for performance and their housing, upkeep and maintenance in any way which is found to be cruel and compromises their health and welfare. Numerous inspections done by AWBI have proven beyond doubt that, training, exhibition and use of elephants for performance, is inherently cruel.

L. RECOMMENDATION

Many countries across the world have prohibited wild animals in circuses. Human-only circuses using willing adult human participants are now gaining popularity in India and around the world. It is time for India to implement a legislative ban on the use of elephants for any kind of performance. AWBI, being the Prescribed Authority under Performing Animals (Registration Rules), 2001, may advise MoEF&CC to issue a central notification, with exercise of powers conferred to it by Section 22 of The PCA Act, 1960, to ban the training, exhibition and use of elephants for performances in India.