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EXCLUDE AND PROTECT

A Report on the WWF case on
wildlife conservation in the Supreme Court of India

BY

SHOMONA KHANNA

March 2008

SRUTI

Society for Rural Urban and Tribal Initiative
New Delhi

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PREFACE

The 'forest case' and the 'wildlife case', both filed in 1995 in the Supreme Court, outwardly project concerns for forests and wildlife. The former, Writ Petition (Civil) No. 202 of 1995, *T.N Godavarman Thirumalpad Vs. Union of India and others*, and the latter Writ Petition (C) No. 337 of 1995, *Centre for Environmental Law, World Wide Fund for Nature-India vs. Union of India and others*, running simultaneously in the Supreme Court, traverse the same territory, both the physical (geographical) space and a heavily overlapping legal space. A look at the narrative as seen from the court room exposes the very nature of the contestations, and the character and interests of the players - the judiciary, the state and the petitioners representing 'civil society' in 'public interest'. The narrative exposes the collusion of interests - class interests - between these players, more so in acts of omission and commission rather than words often pious, and not surprisingly too.

This court room collusion obviously has had its devastating impact on the forest and forest life in terms of engineering a large scale handover of forests to the twin major competing interests of the elite class, both of which manifest through the instrument of capital, in demarcation and allocation of forests for eco-system services and developmental needs. Forests and its inhabitants, including the forest dwellers, are anyway a casualty of the development juggernaut on the expressway of capital-driven hyper growth trajectory as well as of the high-growth green investments for ecosystem services. Added to this are the direct fallouts from the ad-hoc directions and interim orders of the Supreme Court leaving aside the key substantive issues of law themselves unresolved for more than a decade now. This preoccupation with application of the law in the interim, in effect, made the judiciary usurp the governance role and power of the executive over forests, leaving no room to address the key issues arising from the cases themselves.

The impact snowballed into the most widespread and intensive conflict, generating diverse forms of resistance in the forest regions of the country. The resultant political stress generated in the democratic space manifested in the enactment of the *Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006*. This Act, which sets out to right the 'historic injustice', is in itself a loud reproach of the abysmal failure of the state, the executive governments and the judiciary to uphold existing forest laws in their application to people's rights. It need not surprise any one any longer that the judiciary, the state and the petitioners representing 'civil society' in 'public interest' are arrayed on one side against the people and their legal rights, with the government still caught in the vise of the perils of progressively shrinking democracy in a fast militarizing security state.

At another level, the forest establishment built on the edifice of illegality, and colonial command and control approach, was designed to sub-serve a command economy. However, the neo-liberal globalised economy of the past decade no longer requires the continuance of such a colonial forest establishment, but rather wishes the forest establishment to transform itself into a modern corporate forest management system addressing issues of market rather than a semi-colonial and semi-feudal landlordism. But this transition is not occurring from within- the dismantling of the prevalent colonial forest governance system is not taking place. Instead, what one sees is its subordination and subjugation by transnational capital,

transforming it into a vulgar unsophisticated predatory form of expropriation and extraction, not only for modern development but also for conservation for ecosystem services. The enactment of the *Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006* is therefore timely to make a significant dent by creating a space hitherto denied, for the possibility of democratic forest governance, at least in some parts.

The lines are getting drawn more clearly and firmly. The judiciary will have to decide whether it chooses to stand to honour the democratic process, or chooses to play second fiddle to elitist interests in subverting democratic processes. The forest case (Godavarman case) and the wildlife case (WWF case) are significant as they portend the manner in which judiciary is set to take sides with regard to the politics of resource in this developing economy. The present study portrays this larger process as scripted within the hallowed precincts of the judiciary.

C.R Bijoy

Campaign for Survival and Dignity

Coimbatore, March 2008.

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I would also like to thank Rohit Jain of SRUTI, for his gentle patience and firm commitment to this study, which sustained enthusiasm during times when it seemed impossible. Without him, this report would have lost steam a long time ago. I would also like to thank C.R. Bijoy, Shankar Gopalakrishnan, Priya Srinivasa, and Madhu Sarin of the Campaign for Survival and Dignity, for their feedback, lively interest and support. Without them, I would have lost sight of the reason why this report needed to be written. In particular, C.R. Bijoy when writing the Preface gave valuable comments on the draft report.

I would also particularly like to thank Shrimoyee Ghosh and Jawahar Raja, Advocates, for sitting through interminable hearings in the Godavarman and WWF cases in the Supreme Court and for their diligent note making, which often alerted me to issues I had earlier missed. Thank you both.

Finally, while I must share the credit for this report with so many people, the mistakes are entirely my own.

Shomona Khanna

Advocate

New Delhi, March 2008

INTRODUCTION

*The Centre for Environmental Law, WWF-I Vs. Union of India and Others*¹ is a public interest petition, filed in 1995 by World Wide Fund for Nature-India, a premier wildlife conservation institution. The writ petition brought to the notice of the Supreme Court of India the rapid degradation taking place in protected areas, assigning the non-implementation of the provisions of *Wild Life (Protection) Act, 1972* as the primary cause for this degradation. The Petitioners sought a direction to the Respondents, i.e. the Union government, State governments and their respective Collectors, to discharge the duty entrusted to them under Sections 19 to 25 of the *Wild Life (Protection) Act, 1972*. The said provisions of law lay down the procedure for the settlement of rights in protected areas i.e, Wild Life Sanctuaries and National Parks.

This writ petition has been treated as a continuing mandamus by the Supreme Court. A number of interim orders of far reaching consequence have been passed by the Court in this case. These orders have impacted not only the management of national parks and sanctuaries in the country, but have also left their mark on the development of wildlife conservation policy. Like a variety of other PILs relating to environmental and human rights issues² which have been pursued as continuing mandamus', this case too has been coming up for hearing at regular intervals.

Although the writ petition as originally filed was limited to the issue of wildlife conservation, a number of intervention applications have been filed by a variety of applicants, including State governments, public sector undertakings, private companies, NGOs, people's organisations, conservationists and individuals. A variety of related issues have therefore come to the notice of the Court, and the case has expanded way beyond the ambit of the original writ petition. Though the number of applications pending in this case has not reached the proportions of the *Godavarman case*³, the impact of the developments in this litigation, however, is of no less consequence.⁴

Significantly, while setting up the Central Empowered Committee (CEC), the Supreme Court directed that implementation of its orders in this case too will also fall within the jurisdiction of the Committee, along with the orders passed in the *Godavarman case*. Therefore, the CEC is bound to make recommendations/ orders in conformity with the orders passed by the Court in this case as well, and the Court also has referred a number of IAs in this writ petition to the CEC for consideration.

One of the early orders passed by the Court on 22.8.1997 directed that:

"Even though notifications in respect of sanctuaries/national parks have been issued under section 18/35 in all States/ Union

1. *Centre for Environmental Law, World Wide Fund for Nature-India vs. Union of India and others*; Writ Petition (C) No. 337 of 1995; Supreme Court of India.

2. Some examples include: the *Godavarman case* relating to forest issues; the *PUCL case* relating to right to food; the *Safai Karamchari Andolan case* relating to manual scavenging; various *MC Mehta cases* relating to pollution, and so on

3. T. N. Godavarman Thirumalpad vs. Union of India and Ors; Writ Petition (Civil) No. 202 of 1995; Supreme Court of India. The number of interim applications filed in the Godavarman case since its inception has exceeded 2100.

4. The Central Empowered Committee was constituted by the Supreme Court by its order dated 9.5.2002 in Writ Petitions (Civil) No.202/95 & 171/96.

Territories, further proceedings as required under the Act i.e. issue of proclamation under section 21 and other steps as contemplated by the Act have not been taken. The concerned State Governments/ Union Territories are directed to issue the proclamation under section 21 in respect of the sanctuaries/national parks within two months and complete the process of determination of rights and acquisition of lands or rights as contemplated by the Act within a period of one year."

To paraphrase, the Court directed as follows:

- a. Proclamations under section 21 of the *Wild Life Protection Act* be issued in all States and UTs within 2 months;
- b. Process of determination of rights and acquisition of land or rights be completed within one year thereafter.

The compliance by State governments of these directions was monitored by the Court over the next several hearings. Faced with a very real threat of contempt proceedings, most State governments did issue proclamations under section 21 of the *Wildlife Protection Act, 1972* (the Act) over the next year. The *WWF case* has come up for hearing on a number of occasions since then, but the interest of the Court in the process of determination and settlement of rights waned once it was established that all State governments had complied with the directions relating to issue of Section 21 proclamations.

There was little public awareness about this far-reaching order of the Supreme Court until line departments in some States began to misuse the same at the ground level, short-circuiting the procedural and

substantive rights of forest dwellers and tribals in national parks and sanctuaries.⁵ For over 7 years the Court did not interrogate whether the second part of the order dated 22.8.1997 regarding determination and settlement of rights had taken place in accordance with the law.

Instead, on 13.11.2000 the Court passed the following order:

"Pending further orders, no dereservation of forests/ sanctuaries/ national parks shall be effected."⁶

This was followed by an order on 9.5.2002 which directed:

"In the meantime, no permission under Section 29 of the Wild Life Act should be granted without getting the approval of the Standing Committee."⁷

The same year a number of amendments were made to the Act, effectively making the National Board of Wildlife (NBWL) the nodal body for grant of permissions for any change in the land use of a protected area.

These two cryptically worded orders have had implications far beyond the scope of the writ petition as originally contemplated. Since protected areas are included in the definition of "forest land" as contemplated by the *Forest Conservation Act, 1980*, permission under section 2 has been a requirement ever since 1980 when any such land is to be diverted for non-forest purpose. More often than not, alteration of boundaries of protected areas is necessary to give effect to a developmental project which requires, for its effective implementation, part of the land falling within the protected area.

Decision making powers on whether such land is to be used and therefore the National

5. For instance, in the Great Himalayan National Park in Kullu, Himachal Pradesh. For a more detailed report on the said example, see *The Parvati and the Trangopan-Politics, Conservation and Development*, Ashwini Chhatre and Vasant Saberwal, India Together (April 2002)

6. Order dated 13.11.2000 in I.A. No. 2 in WP (Civil) no. 337 of 1995. 2000 SCALE (PIL) 325

7. Order dated 9.5.2002 in I.A. No. 18 in WP (Civil) no. 337 of 1995. 2002 SCALE (PIL) 174

Park or part of it needs to be de-notified was with the State Legislature under Section 35(5). The 13.11.2000 order changed this position by giving the final say to the Supreme Court, and not the State Legislature. With the order dated 9.5.2002, the Court further altered this position by requiring that every proposal for alteration of boundaries of a national park or sanctuary, or its diversion for a non-forest purpose, must be approved by the Standing Committee of the NBWL.

The result of these orders, therefore, is that when a State Government/ user agency wishes to undertake any developmental activity inside a protected area in its jurisdiction, it has to seek the following three permissions:

- ◆ permission of the National Board of Wildlife, through its Standing Committee, under the WPA, and
- ◆ approval under the FCA, that is, for conversion of forest land to non-forest use, and
- ◆ once both these permissions have been granted, the State Government/ user agency has to seek permission from the Supreme Court for changing the land use, as per the order dt. 13.11.2000.

Arguably, these conditions were imposed in an effort to monitor diversion of land from protected areas for developmental activities, and to discourage all but the most compelling ones. While this laudable purpose may have been achieved at the initial stages, material available indicates that over the years, State governments as well as commercial interests have been able to streamline this process to such an extent that it is little more than a hiccup on the

path to final approval. No small part in this process of streamlining has been played by the introduction of the concept of Net Present Value (NPV) in the *Godavarma* case, again as a purportedly 'deterrent' initiative. Today the payment of NPV is treated as just another fee by commercial interests, even as the government feels it has fulfilled its obligation to protecting the environment by ensuring that this fee is paid.

The result is that much of the Court's time in the *WWF* case is now taken up in processing a variety of applications for diversion of portions of different national parks and sanctuaries for varied industrial/ commercial purposes rather than forest conservation and wildlife protection. A few examples are:

- ◆ Laying of 800 KV Tehri-Meerut transmission Line by Power Grid Corporation of India Ltd. through the Rajaji National Park: permission granted by Supreme Court subject to payment of Rs. 50 crore, along with other conditions;⁸
- ◆ Use of 49.26 ha inside Shettihally Wildlife Sanctuary for Upper Tunga irrigation Project: permission granted by Supreme Court subject to payment of Rs. 15 crore;⁹
- ◆ Oil/gas exploration in Desert National Park in Rajasthan by ONGC: the NBWL had approved the application on the condition of payment of Rs. 5 crore, later reduced to Rs. 2 crores. Supreme Court granted permission.¹⁰
- ◆ Drinking water scheme in 0.275 ha of Rajaji National Park by Uttaranchal Pey Jal Nigam: since this was required for the Ardh Kumbh Mela, the Court directed the CEC¹¹ and the

8. Vide order dated 30.10.2002 in IA no. 634-635 in Writ Petition (C) no 202 of 1995

9. Vide order dated 14.7.2003 in IA no. 705 in Writ Petition (C) no 202 of 1995

10. Vide order dated 7.11.2003 in I.A. Nos. 22 and 23 in WP (Civil) no. 337 of 1995; 2003 SCALE (PIL) 287

MoEF¹² to urgently consider the application.

- ◆ Uranium exploration in Chitral and Peddagattu in Rajiv Gandhi Wildlife Sanctuary (Tiger Reserve), Andhra Pradesh, by Government of India: Supreme Court granted the permission subject to fulfillment of conditions imposed by NBWL, including payment of Rs. 5 crore by user agency.¹³

There are indications now that the Supreme Court is finding its own procedures laid down over the years quite unwieldy. It is a common complaint during hearings before the Court that reports of the Standing Committee of the NBWL have not been submitted despite repeated reminders. In several applications before it, especially those relating to civic amenities, such as supply of drinking water, etc., the Court has expressed its impatience at the endless delays, and proceeded to pass orders as it sees fit in the absence of any recommendation from the NBWL. In other cases, the Court has sought the recommendations of the CEC instead, which has complied by giving prompt and properly reasoned recommendations to the Court which are ready to be implemented. It is, however, too early to say that the three step procedure laid down by the Court has in any way been dismantled.

The present document draws its focus from the question of determination and settlement of rights of tribals and forest

dwellers living in/ around and dependent for their livelihood on protected areas. Using this as a springboard, the author conducted a detailed analysis of the Court records and pleadings, reported and unreported Court orders, as well as monitored Court hearings in the *WWF case* over a period of two years. What emerged was a wealth of information, much of it unrelated to the primary focus of the study. However, it was startling to find that significant developments are taking place in this litigation, with little, if any, public awareness, even in circles well informed about national and regional processes around the issue of wildlife conservation, tribal and forest dwellers' rights, and the approach to conservation.

This document attempts to present these findings in a format which is easily accessible to non-lawyers, but will probably be useful to lawyers and legal practitioners as well, providing essential leads which can then be more formally followed up. It does not set out to provide any jurisprudential or academic analysis of the developments in this litigation, but rather hopes to be a document which will bridge the information chasm between activists and lawyers working in the area of tribal's and forest dweller's rights, and the rarefied domain of the Courtroom.

11. Vide order dated 5.9.2003 in WP (Civil) no. 337 of 1995; 2003 (7) SCALE 447

12. Vide order dated 22.9.2003 in WP (Civil) no. 337 of 1995; 2003 (8) SCALE 120

13. Vide order dated 30.8.2004 in IA no. 61 in WP (Civil) no. 337 of 1995; unreported.

1

BRIEF LEGISLATIVE HISTORY OF THE WILD LIFE (PROTECTION) ACT, 1972

Before we commence on an examination of the *WWF case* itself, it is important to take a close look at the *Wild Life (Protection), Act, 1972* (henceforth 'the Act') and some of the developments in this legislation over the last 35 years. At the time when the Act was passed in 1972, the law governing wildlife comprised the *Wild Birds and Animals Protection Act, 1912* (8 of 1912) accompanied by an uneven collection of State level statutes on wildlife and protected areas. Most of these laws had been enacted during colonial rule having rather outdated objectives, such as, the preservation of certain areas as "game sanctuaries" to preserve wildlife for the purpose of game shooting by the Raj and the Indian monarchy, such as it was. Naturally, such an approach could not be allowed to continue for long in independent India, and certainly not in the face of growing evidence of extinction of key species as a result of hunting and developmental pressure. Therefore, a national level statute on the subject was most timely. The existing protected areas were deemed to be constituted under the new Act (section 66) and several new ones initiated, creating a network of 97 national parks covering an area of 38,223.89 square kms, which is 1.16% of the geographical area and 508 wildlife sanctuaries covering an area of 118,400.76 square kms, which is 3.60% of

the geographical area of the country governed by the 1972 Act.¹⁴

Unfortunately, the approach adopted by the Act left much to be desired. Instead of examining traditional local methods of wildlife and environmental conservation closer to home, where wildlife and people have co-existed for centuries, the Act superimposed a "wilderness" construct of conservation based on the exclusionary command and control approach upon the nation. This approach was rationalized with the assumption that wildlife must necessarily have human free zones in order to regenerate and survive, and therefore envisaged the creation of restricted zones free of human presence for the exclusive use of wildlife and animals.

In India, the approach to wildlife conservation and protection has been one of 'stewardship' where local communities have lived in close proximity with nature, using it for their survival even while protecting and respecting it. Each tribal and forest dwelling community developed its own rituals, customs and management practices which further this aim. The *Wild Life Protection Act* as it was enacted in 1972, instead of acknowledging the existence and relevance of these rich traditional practices, completely overrode them, replacing them with a regime that was harsh and rigid. The

14. These are current figures as obtained from the following website: <http://www.wii.gov.in/nwdc>.

imposition of this regime in fact resulted in an unhappy situation where local communities viewed wildlife as competitors for scarce resources, with resentment replacing the feelings of nurturing and co-dependence.

Wild Life Sanctuaries

The statute drew a distinction between "national parks" and "wildlife sanctuaries", beginning with the method of their formation itself. It will be useful to refer to the scheme of the Act in this regard as it then stood. The Act conferred power on State governments to declare any area as a Wild Life Sanctuary, "if it considers such area to be of adequate ecological, faunal, floral, geomorphological, natural or zoological significance, for the purpose of protecting, propagating or development of wild life or its environment."¹⁵ The Collector was entrusted with the duty and power to enquire into and determine the extent of the rights of any persons over the land falling within the limits of the Wild Life Sanctuary subsequent to its notification.

With such declaration, the constitution of the Wild Life Sanctuary was complete, and all the consequences of such classification began to flow. Therefore, certain activities were statutorily prohibited with immediate effect, such as hunting without a permit,¹⁶ causing fire,¹⁷ entry with a weapon,¹⁸ use of injurious substances;¹⁹ such acts were also punishable. A study of the penal provisions is beyond scope of the present document; suffice it to say that that stringent provisions were made in this statute regarding

definition, detection, investigation and prosecution of offences, and even the presumption of guilt in certain cases. Powers were also given to the Chief Wildlife Warden to regulate management of the wild life sanctuary and regulate grazing, fishing, and so on.

The process of determination and settlement of rights commenced only AFTER the declaration of the Wild Life Sanctuary. Section 21 accordingly required the publication of a Proclamation in regional language in every town and village or in the neighbourhood which:

- a. specifies the limits of the sanctuary, and
- b. requires persons claiming any right in this area to file written claims before the Collector specifying the extent of the right and the compensation claimed, if any.

The Collector's powers for this purpose were equated with those of a Civil Court in the trial of suits,²⁰ and after examining the claim he was duty bound to pass an order admitting or rejecting the claim in part or in whole.²¹

While the Act specifically relies upon the *Land Acquisition Act, 1894* for the purpose of acquisition of rights²² and also deems such acquisition as being for a 'public purpose'²³ there was also a clear recognition that rights in wild life sanctuaries (including the right to reside) can continue.²⁴ During the course of settlement proceedings therefore, the Collector had the power to:

15. Section 18 (1) Wildlife Protection Act, 1972.

16. Section 29

17. Section 30

18. Section 31

19. Section 32

20. Section 23 (b)

21. Section 24.

22. Section 24(2)(b)

23. Section 25(2)

24. Sections 24, 25, 27, 28.

- a. exclude such land from the boundary of the sanctuary,²⁵
- b. acquire such land or rights and vest the same in the government,²⁶
- c. award compensation by way of money or land or both,²⁷ and
- d. provide for alternative public way or common pasture as far as practicable, if such rights are being stopped.²⁸

National Parks

National Parks on the other hand were originally conceived as, and still remain, areas where human intervention and presence is completely excluded. Therefore, the Act envisaged that not only would all human settlements be removed, but all usufructuary and easement rights, such as to fuelwood, fodder, grazing, and fishing, would also be discontinued through a process of acquisition. The area within the National Park would therefore be left free for the exclusive use of wildlife protection and conservation.

While drawing heavily on the procedure for processing of claims relating to sanctuaries, the Act makes a key departure with regard to National Parks. The constitution of National Parks therefore has been envisaged by the Act as a three step process as follows:

Step 1: Notification of Intention, or first notification: While Section 35 gave the State government power to declare an area as a national park for the same reasons as a sanctuary, it also laid down at the outset that the State government must notify "its

intention to constitute such area as a national park."²⁹

Step 2: Determination of Rights and their settlement/ acquisition: After such notification of intention, the same provisions for investigation and determination of claims and also for the extinguishment of rights (sections 19 to 26) apply to National Parks as for Wild Life Sanctuaries.³⁰ The Act therefore necessitates the completion of the following in order for the process to reach the third and final step:

- a. time for preferring claims has elapsed, and all claims have been disposed of by the State government,³¹ and
- b. all rights in respect of lands proposed to be included in the National Park have become vested in the State government.³²

Step 3: Final Notification/ Notification of Declaration: Only once the steps described above have been completed can the State government issue a notification under Section 35 (4) declaring the National Park, and stating clearly the boundaries of the land in the National Park, as well as the date from which the notification is operative. This is also known as the 'final notification', since from this time on, the land is constituted as a national park, and numerous consequences under the Act flow.

One such consequence, as contemplated by the Act as it stood in 1972, was that there could be no alteration of boundaries of a national park without a resolution of the legislature of the State.³³

25. Section 24(2)(a)

26. Section 24(2)(b)

27. Section 25(1)(e)

28. Section 25(1)(f)

29. Section 35(1)

30. Section 35(3)

31. Section 35 (4)(a)

32. Section 35(4)(b)

33. Section 35(5). This provision was amended in 2003, replacing the requirement for approval by the State Legislature with the National Board for Wild Life.

While grazing of cattle and even their entry for such purpose into a national park was specifically forbidden, the provisions relating to causing fire, entry with weapons, ban on use of injurious substances and restriction on issue of arms license in the vicinity were adopted from the provisions relating to wild life sanctuaries.

In keeping with the exclusionary design of national parks, provisions relating to grant of hunting licences, regulation of movement of cattle, and of fishing in wildlife sanctuaries were categorically not extended to national parks.

Key Amendments to the 1972 Act in the last 35 years

Over the years the *Wild Life (Protection) Act, 1972* has been amended drastically. While some of these amendments are designed to make the law more stringent, they also include several beneficial provisions which recognize and protect the rights of tribals and other forest dwellers within the protected areas. In the section below we examine the main features of some of these amendments.

The Wild Life (Protection) (Amendment) Act, 1991 (44 of 1991)

The Statement of Objects and Reasons of this Amending Act states as follows:

"2. In the implementation of the Act over 18 years, the need for amendment of certain provisions of the Act to bring them in line with the requirements of the present times has been felt...."

"6. While making the provisions of the Act more effective and stringent, due regard has also been given to the rights of the local people, particularly the tribals. It is being provided that except for the areas under reserve forests, (where the rights of the people have already been settled) and the

territorial waters, no area can be declared a sanctuary unless the rights of the people have been settled. State Wild Life Advisory Boards are also being made responsible for suggesting ways and means to harmonise the needs of the tribals and the protection of Wild Life." (emphasis supplied).

The key changes brought in to the Act by the 1991 Amendment, therefore, were:

Second notification made mandatory for constitution of Wild Life Sanctuaries also

The 1991 amendment substantially changed the procedure relating to the constitution of Sanctuaries as contained in Chapter IV of the Act. No longer was a notification under Section 18 sufficient for declaring an area as a Sanctuary. Rather, since 1991, two notifications have to be issued not only for national parks but also for sanctuaries: the first one under Section 18, declaring the 'intention' of the State Government for constituting an area as a Sanctuary, and the second and final notification under Section 26-A 'declaring' the area a Sanctuary. The notification under Section 26-A can be issued only after the period for making claims has elapsed, and all claims made in relation to any land in an area intended to be declared as a sanctuary, have been disposed of by the State Government. Thus, after the 1991 amendment, settlement of rights is a necessary precondition to declaration and constitution of a sanctuary as well as a national park.

Continuation of existing rights in Wild Life Sanctuaries now possible

Making a significant departure from the *Land Acquisition Act*, the 1991 amendment also inserted a new Section 25(1)(C) which confers power on the Collector to allow continuation of rights in sanctuaries. Under this provision, the Collector may in consultation with the Chief Wild Life Warden, continue any right of any person in or over land within the limits of the sanctuary at the

time of acquiring rights. The significance of this provision lies in the fact that after 1991, constitution of an area as a sanctuary does not necessarily require absolute termination of rights in the area. The totalitarian exclusionary approach to National Parks, however, remained unaltered, with no similar benefit being extended to them.

Constitution of State Wild Life Boards

The 1991 amendment Act also inserted Section 8(cc) making the State Wild Life Advisory Boards responsible for suggesting ways and means to harmonise the needs of tribals and the protection of wildlife.

The Wild Life (Protection) (Amendment) Act, 2002 (16 of 2003)

Another set of amendments having a bearing on protected areas and rights of tribals and other forest dwellers was brought in 2002. Some of these amendments were aimed at ensuring increased involvement and participation of tribals and other forest dwellers in conservation management programmes. Listed below are some of the key amendments brought about in the Act in 2003:

Community Reserve and Conservation Reserve

The 2003 amendment provided for the creation of two new types of protected areas, namely, Conservation Reserves and Community Reserves. The purpose of creating these two types of Reserves is explained in the Statement of Objects and Reasons as under-

"The declaration of these two new types of reserves, i.e., conservation reserve and community reserve are aimed at improving the socio-economic conditions of the people living in those areas as well as conservation of wild life.

Conservation reserve and community reserve would be managed on the principles of sustainable utilization of forest produce."

A Conservation Reserve can be declared in an area owned by the State government adjacent to a national park/ sanctuary for protecting the landscape, seascape and habitat of fauna and flora (section 36A-B). So far as a Community Reserve is concerned, the State government is empowered to notify any community land or private land as Community Reserve provided that the members of that community or individuals concerned are agreeable to offer such areas for protecting the fauna and flora, as well as their traditions, cultures and practices (Section 36C-D). These Reserves are to be managed and maintained by the respective Management Committees consisting of representatives of village panchayat, non-governmental organizations and government departments, and the Committees are free to regulate their own procedure.

Forest Produce

A new provision was inserted with respect to Wildlife Sanctuaries to the effect that till such time as the rights of affected persons are finally settled under sections 19 to 24 (both inclusive), the State Government shall make necessary alternative arrangements for making available fuel, fodder and other forest produce to the persons affected, in terms of their rights as per the Government records.³⁴

In addition, while prohibiting the removal of forest produce for commercial purposes from Sanctuaries and National parks, the Amendment makes an exception to this prohibition by allowing the removal of forest produce for meeting the personal bona fide needs of the local people living in and around the sanctuaries and national parks.³⁵ These provisions are extracted below:

34. Section 18(A)(2)

35. Provisos to Section 29 and Section 35(6)

"Section 29. Destruction, etc., in a sanctuary prohibited without a permit.- ...

Provided that where the forest produce is removed from a sanctuary the same may be used for meeting the personal bona fide needs of the people living in and around the sanctuary and shall not be used for any commercial purpose.

Section 35 (6)

Provided that where the forest produce is removed from a National Park, the same may be used for meeting the personal bona fide needs of the people living in and around the National Park and shall not be used for any commercial purpose.

Time limit for completion of proceedings

In two key areas the 2003 amendment seeks to lay down statutory guidelines so as to rationalize and expedite the process of final notification of Wild Life Sanctuaries and National Parks and safeguard the decline of bio-diversity during the intervening period between the first and the final notification. Firstly, it has been provided that the State Government shall appoint an officer to act as Collector under the Act, within ninety days of coming into force of the *Wild Life (Protection) Amendment Act, 2002*, or within thirty days of the issue of the first notification under section 18, to inquire into and determine the existence, nature and extent of rights of any person in or over the land comprised within the limits of the sanctuary which may be notified under section 18(1). The Amendment further makes it mandatory for the Collector to complete the settlement proceedings within the period of two years from the date of the first notification of intention for both Sanctuaries and National Parks.³⁶

36. Section 25A and Section 35(3)

37. Section 5A

38. Section 6

39. Section 26A(3) and Section 35(5)

40. Proviso to Section 33

Constitution of National Board and restructuring of State Wildlife Boards

The 2003 amendment gave a statutory status to the National Board for Wild Life³⁷ and restructured the State Wildlife Advisory Boards.³⁸ A key change was that any alteration of boundaries in national parks and sanctuaries can now be made only on the basis of the recommendation of the National Board for Wildlife.³⁹ In addition, it was provided that no construction of commercial tourist lodges, hotels, zoos and safari parks shall be undertaken inside a sanctuary except with the prior approval of the National Board for Wildlife.⁴⁰

Civil Society participation in decision-making at policy level

Section 33-B was inserted with a view to empowering the State governments to constitute an Advisory Committee for better conservation and management of the sanctuary. The Committee is to have representatives from Panchayati Raj Institutions, non - governmental organizations, conservationists and Government officials to render advice on conservation and management of sanctuary and national parks including participation of the people living within and around the protected area.

Eviction of encroachments

The 2003 Amendment gave the Assistant Conservator of Forests sweeping powers to evict any person from a sanctuary or national park who has unauthorisedly occupied the land in violation of the Act (Section 34A). It also gave him the power to remove unauthorized structures as well as tools and effects belonging to such person

from inside the sanctuary or national park.

Preceded by a *non obstante* clause, this power effectively became immunized from all existing legislations relating to due process, eviction, tenancy, land use and unauthorized occupation, as well as existing law relating to regularisation and settlement of land rights. It even immunized this power from other provisions of this Act itself, being seen as an addition to penalty clauses. The only protection to such person which the law provides is the right to be heard, and even that is not clearly defined.

There are a number of other provisions, especially the provisions relating to penalties and criminal procedure, which border on the draconian. One such provision is Section 51A, which defines the right to bail as stringently as any anti-terrorism statute. However, the present document is not the place for a detailed examination of the penal provisions contained in the *Wild Life Protection Act*.

The Wild Life (Protection) (Amendment) Act, 2006 (39 of 2006)

The 2006 amendment, which has come to be known as the "Tiger Amendment", inserts two new chapters into the Act, namely Chapter IV B entitled 'National Tiger Conservation Authority' and Chapter IV C entitled 'Tiger and other Endangered Species Crime Control Bureau'. Of these Chapter IVB which relates to Tiger Reserves is of immediate concern to us.⁴¹

National Tiger Conservation Authority constituted

Chapter IVB provides for the setting up of a National Tiger Conservation Authority and delineates its constitution, powers and

functions. While granting sweeping powers to the National Tiger Conservation Authority to issue directions to any person, officer or authority for tiger protection, it is also provided that these directions cannot interfere with or affect the rights of local people, particularly Scheduled Tribes. Section 38 O(1) also for the first time recognizes the distinction between "ecologically unsustainable land use such as, mining, industry and other projects," which are to be disallowed within `Tiger Reserves, and existing rights of local people, particularly Scheduled Tribes. Finally, for the first time in India's forest and wildlife laws, the planning and enforcement authorities include experts on tribal rights and members from the departments dealing with social justice. The Tiger Conservation Authority also includes the Scheduled Castes and Scheduled Tribes Commissioner.

Tiger Reserves as a new statutory category of protected areas

Even though Tiger Reserves have been in existence as an administrative category for several years, the 2006 amendment creates a new statutory category of Tiger Reserves as a classification of protected area under the 1972 Act for the first time. The importance of this amendment lies in the fact that there is a clear recognition in the body of the statute of the protection of people's rights over the forest land, the forest produce, as well as in the decision making process relating to conservation. The reversal of the exclusionary model of conservation ingrained in the 1972 Act had begun in 1991 itself. This amendment brings that process of reversal to a considerably higher level.

41. It is a matter of concern that this far reaching amendment is currently the subject matter of a constitutional challenge by several wildlife conservation NGOs in the Supreme Court, entitled *Bombay Natural History Society and ors vs. Union of India and Ors*, Writ Petition (Civil) 514 of 2006. The details of this petition are discussed in a subsequent chapter.

A peoples' rights oriented approach to conservation as well as to demarcation of the reserve

Tiger Reserves are divided into two parts. First is the "core or critical tiger habitat" within a national park or sanctuary, where it "has been established on the basis of scientific and objective criteria" that these areas should be kept inviolate - without affecting the rights of Scheduled Tribes or forest dwellers. The second part is the "buffer or peripheral area... aim[ed] at promoting co-existence between wildlife and human activity with due recognition of the livelihood, developmental, social and cultural rights of the local people." The boundaries of the buffer area are to be decided in consultation with the concerned Gram Sabhas and an Expert Committee. This buffer area need not be within a National Park or Sanctuary.⁴²

When preparing a Tiger Conservation Plan, the State government is bound to "ensure the agricultural, livelihood, developmental and other interests of the people living in tiger bearing forests or a tiger reserve".⁴³ Further, no person can be resettled outside a Tiger Reserve or have their rights adversely affected for the purpose of creating inviolate areas, except where all the following conditions have been satisfied:⁴⁴

- i) the process of recognition of rights and acquisition of land or other forest rights is complete; and
- ii) it is established, with the consent of local forest dwellers and Scheduled Tribes, that their activities and presence is sufficient to cause irreversible damage and threaten the existence of tigers and their habitat; and
- iii) the State government has concluded that no other reasonable option of coexistence is available; and
- iv) a resettlement/ rehabilitation program has been prepared as per the National Rehabilitation Policy which provides a livelihood for the affected individuals and communities; and
- v) the informed consent of the Gram Sabha and the persons concerned to the resettlement program has been obtained; and
- vi) the rights of Scheduled Tribes and forest dwellers shall not be interfered with until the facilities and land allocation for rehabilitation is complete.

42. Sections 27(2), 27(3), 27(4), 30, and 32.

43. Section 38V(4)

44. Section 38V(5)

Therefore we find that the *Wild Life Protection Act, 1972* has morphed from a statute based on a "no-man-zone" approach to conservation and protected areas, to a far more realistic and historically/geographically relevant approach where co-existence, participation and collaboration with local populations of tribals and forest dwellers is recognised as an essential element of conservation itself. These developments have not taken place in a

vacuum, but rather, are in keeping with the progress at the national, regional and international levels where the exclusionary approach to wildlife protection has been all but abandoned, and a more collaborative, non-adversarial approach has been advocated as both ecologically sustainable and protective of human rights and particularly in response to the resistance and struggles of forest dwellers, especially Adivasis.

2

THE 'WWF CASE'- WHAT THE PLEADINGS REVEAL

Activists, foresters, conservationists and even the general public have at some point or other heard of the 'WWF case'. However layered the responses and reactions have been, unfortunately they have been based on information that is incomplete and fragmented at best. A key objective of the present document is to fill this information gap and thereby inform the debate as also empower the discussants. As part of this process the author undertook a systematic collation of materials relating to this case, ranging from pleadings, court records, interim orders and directions, and also an analysis of other writings. In the present chapter many of the key findings are summarized.

Filed in 1995 as a writ petition under Article 32 by the **Centre for Environmental Law**, a unit of the **World Wide Fund for Nature-India**, this petition right from the start projected itself as a 'public interest litigation' or PIL. At the time of filing, the 1991 amendments to the WPA had already come into force. Apart from invoking several provisions of the Constitution of India in support of their submission that fundamental rights were being violated, the Petitioners made several submissions in their petition based on an analysis of the provisions of the *Wild Life (Protection) Act, 1972*, a copy of which was attached to the writ petition as an Annexure.

Key submissions in the writ petition

The key submissions made by the Petitioners in the writ petition are summarized below:

- ◆ "The CEL is interested in filing this case because taking up Nature Conservation and Protection works is its main objective. Nature Conservation involves activities ranging from protection of habitat of wild life (Flora and Fauna), to caring for the needs of people and communities that depend directly on nature for sustenance and for the fulfillment of basic human needs, and thereby contributing to the environment."(@ para2)
- ◆ Being duty bound by their objectives, the petitioners have been constrained to move the Supreme Court in public interest as "people, flora and fauna are directly and adversely affected." (@ para 3)
- ◆ Keeping in view the rapid decline of India's wild animals and birds, and the inadequacy of the *Wild Birds and Animals Protection Act, 1912* (8 of 1912) and other existing State laws, the Indian Parliament enacted the *Wild Life (Protection) Act, 1972*. A total of 526 National Parks and Sanctuaries were notified under

Section 18/ 35 of the Act. The Act lays down the entire procedure as contained in Section 19 to Section 25, for declaring and creating National Parks and Sanctuaries. The provisions of the Act make it mandatory after the issuance of notification under Section 18 of the Act, for the Collector to inquire into and determine the rights of any person over the said land.

- ◆ The respondent State governments, after issuing the notification under Section 18, have omitted and neglected to conclude the declaration proceedings as contemplated from Section 19 onwards of the said Act. Ground 4 of the petition states:

"The omission on the part of the Collectors to determine the rights has led to severe adverse impact on the biodiversity of such notified Sanctuaries/ National Parks due to several factors which are briefly enumerated hereunder:

- i. quantum jump in the population due to local residents and migrant population within the protected area;
- ii. more land of the protected area is being converted for residential/ commercial use;
- iii. more land of the protected area is being converted for agricultural use;
- iv. large tracts of the protected area are being converted for grazing purposes;
- v. construction of paths/ roads within protected area, which have not only reduced the area but in turn has also increased the

vehicular movements within the protected area;

- vi. increase in domestic/ commercial waste within the protected area;
- vii. noise pollution due to playing of loud speakers and vehicular movement;
- viii. the attitude of people within the protected areas undergoes a drastic change after the notification due to the uncertainty of their right over the land and its surrounding areas, which leads to indiscriminate misutilisation of the available resources and land;
- ix. increase in population generates enhanced political clout which further aggravates the issue leading to denotification of large areas of the protected areas;
- x. increase in poaching of wild life animals for food /commercial purpose;
- xi. degradation/ destruction of the habitat of wild animals;
- xii. increase in deliberate/ accidental incidents of fire within the protected areas;
- xiii. increase in instances of timber smuggling for commercial purposes."

- ◆ Article 48A of the Constitution of India makes it obligatory on the state to protect wild life and forests. Under Article 51A of the Constitution, a fundamental duty is imposed on every citizen to protect and improve forests and wildlife.

- ◆ The petition argues "that wildlife and forest forms part and parcel of Article 21. In other words Article 21 of the

Constitution includes the right to life and all that goes along with it... The fundamental right for the protection of wild life and its habitat is to be read from the words "life and personal liberty" appearing in Article 21 of the Constitution....the protection of wildlife is not merely a Directive principle but is a part of every citizen's life, liberty and heritage." (@ para 8, 9)

- ◆ It further argued that "the inaction on the part of the Collector is violative of Article 14 as the inaction is the product of arbitrariness." The Petitioner placed reliance on the observations made by the Supreme Court in the case of *Ajay Hasia*⁴⁵ that Article 14 "has highly activist magnitude and it embodies a guarantee against arbitrariness".
- ◆ Relying on the concept of inter-generational equity, the petitioner argued that "the omission to act, on the part of the respondent, raises a very fundamental question of inter-generational equity, in terms of the rights of the child of the present generation and those of the future, to inherit the environment, at least in the form in which the present generation has enjoyed it....The right to environment is an inherent aspect of the right to life, Article 21, of our Constitution and extends to children of our generation and future generations..." (@ para 11)
- ◆ It was further urged that Articles 39(a), (b) and (f) read along with Articles 21 and 14 clearly establishes

a constitutional mandate for intergenerational equity.

- ◆ The Petitioner relied upon the following international conventions to which India is a party:
 - ◆ Convention on the Rights of the Child, 1989;
 - ◆ Convention on Wetlands of International Importance Especially as Waterfowl Habitat, 1971;
 - ◆ Convention for the Protection of the World Cultural and Natural Heritage, 1972.
 - ◆ Convention on International Trade in Endangered Species of Wild Fauna and Flora, 1973.
 - ◆ Convention on the Conservation of Migratory Species of Wild Animals, 1979.
 - ◆ Convention on Biological Diversity, 1992.
- ◆ The Parliamentary debates demonstrate that representatives from all over the country have profusely welcomed the enactment of the *Wildlife (Protection) Act, 1972*, but this is one of the legislations which miserably failed as far as its proper implementation is concerned.
- ◆ The petitioner relied upon earlier decisions of the Supreme Court in *State of Bihar vs. Murad Ali Khan*⁴⁶ regarding environmental degradation, *Shri Sachidanand Pandey vs. State of West Bengal*⁴⁷ on

45. *Ajay Hasia vs. Khalid Mujib Sehravardi* (1981) 1 SCC 722

46. (1988) 4 SCC 655

47. AIR 1987 SC 1110

the urgent need to address widespread extinction of wild animals and their habitat, and in *M.C. Mehta Vs. Union of India*⁴⁸ regarding the issuance of appropriate directions by the Court where it finds that public nuisance or other wrongful acts affecting or likely to affect the public.

Relief sought

Even though the expanse of issues covered by this PIL has increased exponentially over the years, it is still useful to examine the prayers it started out with seeking way back when it was filed in 1995:⁴⁹

"It is therefore, most humbly prayed that the Hon'ble Court may be pleased to:

- (i) Direct the respondents and their respective collectors to enquire into and determine the existence, nature and extent of the rights of any persons in or over the land comprised within the limits of the sanctuary/ national park;
- (ii) Direct the respondents and their respective collectors to issue a proclamation and dispose of the claims as expeditiously as possible;
- (iii) Direct the respondents and their respective collectors within whose jurisdiction the sanctuary/ National park is located to discharge their statutory duty as entrusted under sections 19 to 25 of the Wild Life Protection Act;
- (iv) Pass such other order (s) the Hon'ble Court may deem fit."

The writ petition was also accompanied by an application for interim directions (I.A. No. 1), which sought a direction to the respondents:

- (v) "to take proper and effective measures to check further degradation and encroachment of the Sanctuaries/ National Parks falling within their respective jurisdiction."

Annexures to the Writ Petition

It is important to examine the Annexures filed along with the writ petition for the reason that these are the key documents upon which the petitioner relies when arguing its case before the Court during the hearings, especially the first few hearings. This is the time when the petitioner in such a case is under scrutiny to establish what are the fundamental rights violations which it is litigating, based on which it is claiming a right to move a writ petition under Article 32. It is therefore of some interest to examine the two annexures to the writ petition, namely:

(i) **Annexure I: Copy of the Wild Life (Protection) Act 53 of 1972:** Although the Amendments made in 1991 to the Wild Life (Protection) Act, 1972, were already in force at the time of filing the writ petition, the Petitioner annexed the unamended Act of 1972 to the writ petition. This fact takes on critical importance in the light of the fact that the Prayer (*above*) specifically seeks a direction to the Respondents to discharge their statutory duty under Sections 19 to 25 of the Act. The pleadings reveal that no mention has been made to the issue of final

48. (1987) 4 SCC 463

49. The original prayer in the writ petition was as follows:

"It is therefore, humbly prayed that the Hon'ble Court may please direct the respondents and their respective Collector within whose Jurisdiction the Sanctuary/ National Park is located to discharge their statutory duty as entrusted under Sections 19 to 25 of the Wild Life (Protection) Act, 1972."

When the case came up for hearing for the first time on 10.5.1995, the prayer was found unacceptable by the Court, although no reason was assigned, and the petitioner directed to re-frame the prayer. Accordingly an amended prayer was subsequently filed.

notification under Section 26-A, which was already in force at the time, either in the petition, or in the prayer or even in the relevant Annexure. Can this be an indicator that the Petitioners never intended to seek any relief for the issuance of final notification under Section 26-A of the *Wild Life (Protection) Act, 1972*?

(ii) **Annexure II: List of National Parks and Sanctuaries:** This Annexure lists the 526 national parks and sanctuaries which were at various stages of constitution at the time of filing the writ petition, that is, in 1995. A verbatim copy of this list as annexed to the writ petition is placed at **Appendix A**. Presented in a tabular form, this lists State wise details including the name, date of establishment as well as the area covered by each protected area, but does not, interestingly, contain the number of tribals and forest dwellers residing inside or dependent on the said protected area for their livelihood.⁵⁰

Court issues Rule Nisi

On 25th August 1995, a bench of the Supreme Court comprising Justices SC Agrawal and SP Bharucha, issued Rule Nisi in the case. The term '*rule nisi*' is a technical term used to indicate that the Court has acknowledged that there appears to be a violation of a petitioner's right and is of the mind to issue directions in its favour, and is calling upon the respondents to show cause why the relief sought should not be made absolute.

In the ordinary course, the devise of a *rule nisi* would entail the hearing of arguments and submissions on both sides, perhaps the filing of additional affidavits and documents

in support at the most, and a judgment and order of the Court laying down the legal position on the issues raised. However, the present case was conceptualized from the very start as a PIL, and the Court decided to take a more pro-active approach, taking up the case for hearing from time to time, issuing numerous orders and monitoring the implementation of these orders. The *WWF* case has therefore not followed the normal course of a writ petition under Article 32, and has been converted by the Court into a continuing mandamus.⁵¹

Since the writ petition, along with the various IAs pending with it, comes up for hearing at intervals of 2-3 months, at each hearing the Court passes 'interim' orders, some of which are, in effect, injunctions. Again, in the normal course an interim order of injunction would operate only till the next date of hearing or till a date the Court directs. This fundamental principle is grounded in sound jurisprudential principles of natural justice; orders of an interim nature operate till such time as the aggrieved party has had an opportunity to oppose them, after which they are either vacated or confirmed. Interim orders are not meant to operate *ad infinitum*. However, the mechanism of a continuing mandamus, which is not a statutorily defined procedure but is Court-evolved, contains no such inbuilt mechanism for protecting those aggrieved by such interim orders. The failure to hear affected stakeholders, who may not even be parties to a PIL filed in public interest, and the operation of interim orders against them for years on end, is a long standing criticism of the continuing mandamus device.⁵²

50. The number of protected areas and their classification has altered somewhat over the last 12 years, as described in the Introductory chapter.

51. For a scathing critique of the use of the tool of continuing mandamus by the Supreme Court in the *Godavarman* case, see *The Godavarman Case: The Indian Supreme Court's Breach of Constitutional Boundaries in Managing India's Forests*, by Armin Rosencranz, Edward Boenig, and Brinda Dutta, *Environmental Law Review*, January 2007.

52. *Ibid*

I.A. No. 2: An application for directions

In recognition of the opportunity presented by the approach of the Court towards this writ petition, a year later on 25th October 1996 the petitioner filed an Application seeking additional directions from the Court on the subject of conservation of wildlife and the implementation of the Act. It was pointed out that the Indian Board for Wildlife has not been able to fulfill its potential under the Act due to 'fluctuation and instability of politics'.

The application further pointed out that the Wildlife Advisory Boards at the State level are also dysfunctional and in many States have not even been constituted, and Honorary Wildlife Wardens have not been appointed at the District levels. It argued:

"The Honorary Wildlife Warden plays a role of buffer between the alleged demands of the people on the sanctuary and the curtailment of it by the wildlife authorities." (@ para 15)

In conclusion, the Petitioner specifically referred to the issue of tiger conservation and argued:

"That the respondents prima facie have been neglecting to discharge their obligations for the implementation of the provisions of the statute namely the *Wildlife (Protection) Act, 1972*. Their omission in this regard has led to a serious decline in the population of tigers which in the present context is only a flagship species. Its dwindling number can be safely taken as a parameter to indicate and apply the threat to other innumerable species which have been protected under the *Wildlife (Protection) Act, 1972*." (@ para 16)

In order to buttress this argument, the application annexed statements giving the population of tigers in the various States, although despite the lapse of more than one year since the filing of the writ petition, the petitioner did not take the opportunity to place on record the then current version of the Act, that is, incorporating the 1991 amendments.

This application also placed on record as Annexure III a summary survey report conducted by Sh. Valmik Thapar in 16 Tiger Reserves, who was at the time Member of the Tiger Crisis Cell and of the Steering Committee of Project Tiger. While advertent to this survey report, the application reveals that a petition bearing CWP No. 4918 of 1993 had been filed by the same petitioner in the Delhi High Court, which had passed a judgment dated 11.4.1994 setting up a Committee headed by a former Inspector General Forests, for implementation of its recommendations.⁵³ This Court appointed Committee had submitted a report, to which a sample survey highlighting the innumerable ailments in respect of Tiger Reserves was annexed. It is this sample survey which was filed as Annexure-III. Neither the recommendations of the High Court contained in its judgment nor the report of the Committee set up for this purpose were, however, placed on record before the Supreme court.

On the basis of these arguments and documents, the additional directions prayed for in this application were as follows:

- "direct the Respondent No.1 to forthwith call a meeting of the Indian Board of

53. *World Wide Fund for Nature India vs. Union of India & Ors*, 54 (1994) Delhi Law Times 286 (DB).

Wildlife (which has not met even once in the last 8 years);

- "direct the Respondents to constitute their respective Wildlife Advisory Boards and nominate its members as contemplated u/s 6 of the said Act;
- "direct the Respondents to appoint Honorary Wildlife Wardens in each district as contemplated u/s 4 of the Wild life (Protection) Act, 1972;

- "direct the Respondents to take appropriate measures to enforce the recommendations as mentioned in Annexure III to this petition."

This application initiated a series of subsequent events which are set out in the following chapter.

3

RESPONSE OF THE SUPREME COURT

In response to the Interim Application (IA No. 2) filed by the petitioner, the Supreme Court issued notice to all the State governments, Union Territories, and the Union of India on 24th February 1997. Six months later on the 22nd of August 1997, the Court passed a detailed interim order in IA no. 2, containing a number of key directions regarding the implementation of the Wildlife Protection Act.⁵⁴ This order directed the respondent State governments to:

- a. issue the proclamation under section 21 in respect of sanctuaries/ national parks within 2 months; and
- b. complete the process of determination of rights and acquisition of land or rights as contemplated under the *Wild Life (Protection) Act, 1972* within a period of one year.

In addition, the Court also directed the respondents to:

- c. constitute Wild Life Advisory Boards at the State level within 2 months;
- d. appoint Honorary Wild Life Wardens at the District level within 2 months;
- e. proposals for de-notification of any area which is included in a sanctuary/ national park shall be referred to the Indian Board for Wild Life for its

opinion, and only thereafter shall the proposal be placed for consideration before the Legislative Assembly along with the opinion of the Indian Board for Wild Life;

- f. in order to effectively control the growing increase of poaching, the respondents will ensure that forest guards in the sanctuaries/ national parks are provided modern arms, communications facilities, viz., wireless sets and other necessary equipments.

Although the pleadings filed by the writ petitioner relied upon the unamended *Wild Life Protection Act*, we have to presume that before passing the above order the Supreme Court did have before it the amended Act (that is, containing the crucial amendments of 1991) and passed this order only after examining the statute and its methodology, complete with the scheme for initial notification, proclamation, determination of rights, and final notification. The Supreme Court also must have considered the pleadings and documents on record, as well as heard the arguments advanced by the petitioner and the other parties.

Having done that, it chose to restrict its order to issuing time bound directions as required for the following:

54. **Appendix C** to this document contains a compilation of reported and unreported orders passed by the Supreme Court in the *WWF case*, including the order dated 22.8.1997.

- Proclamation under Section 21- 2 months
- Determination of rights- 1 year thereafter.

Whether such an argument was advanced or not at that stage, it is important to point out that **no direction for issuance of final notification under Section 26 A or Section 35 was made by the Supreme Court.**

Follow-up of the order of 22.8.1997

As in many other PILs, the time frame fixed by the Court for implementation of its directions was followed more in the breach. As a result, considerable time was taken up at several subsequent hearings in granting extension of time to State governments, taking to task the State governments who had not complied, and in some cases even initiating proceedings for contempt of court. Be that as it may, under the active supervision of the Court, the issuance of proclamations under section 21 of the Act was by and large complete by end of 1998.

Naturally, since the proclamation under Section 21 precedes the determination of rights under the scheme of the Act, the issue of whether determination of rights (for which a time limit of one year after the proclamation had been fixed) was continuing as per schedule did not come up at this stage.

At the ground level, however, the order of 22.8.1997 began to wreak havoc. Under the garb of the one year deadline imposed by the Court, State level forest departments began to issue notices to tribals and forest dwellers living in and around protected

areas across the country, and in many areas the process of settlement of rights became an excuse for forcible eviction and short circuiting of rights. This became a matter of concern for organisations working with forest dwelling communities in the affected areas, and after holding extensive consultations, a joint Application for Directions was filed by 14 organisations and *sangathans* bringing to the notice of the Court serious violations of constitutional and statutory rights ensuing as a result of this order, and seeking its urgent modification.⁵⁵ However, when the application came up for hearing on 20.7.1999, a bench comprising Justices S.P. Bharucha, R.C. Lahoti and N. Satosh Hegde summarily dismissed it with the following order:

"IA No. 11 is dismissed."⁵⁶

Over the years, some applications have been filed with regard to regularisation of land rights by a few State governments, as well as by private parties, and these are considered in detail in Chapter V below. However, the issue of determination and settlement of rights as urged in the writ petition did not come up for hearing for several years.

Seven Years Later

Even though the Writ Petition and various connected IAs were heard regularly,⁵⁷ and the matter was treated by the Court as a continuing mandamus much in the same way as the *Godavarman case*, although on a smaller scale, it was only 7 years later that on 26th July 2005 during a hearing of the case, the petitioner WWF-India mentioned the Application for Directions IA no. 2 and the long pending matter of issue of proclamations under section 21 and

55. *Kalpavriksh & Ors. Vs. Union of India & Ors*, IA No. 11 of 1998 in WP (C) 337 of 1995.

56. Order dated 20.7.1999 in WP 337 of 1995. Unreported.

57. A list of the various IAs pending and disposed of in the WWF case till the time of writing is placed in **Appendix B**. Extracts from the key orders passed by the Supreme Court from the time of institution of the case are contained in **Appendix C**.

determination of rights. During this intervening time, many developments had taken place in the area of forest law in general and in the law relating to protected areas in particular. The bench had also changed several times, as had counsel for several of the respondents. The Court asked the petitioner to place the up-to-date position before the Court for consideration at the next date of hearing.

Accordingly, on 18th November 2005 petitioner WWF-India filed a detailed analysis of the current position relating to national parks and sanctuaries in all the States. A copy the statement submitted by the writ petitioner to the Supreme Court is placed in **Appendix D**. The statement makes interesting reading for various reasons.

To begin with, since the issue of Proclamations under Section 21 was already completed in 1998, it would be expected that the statement of the petitioner would focus on the status of compliance by State governments with the second part of the order dated 22.8.1997, that is, the determination and settlement of rights. But the statement contains little information, if any, on the subject. Nor does the statement provide any insight into the status of various concomitant proceedings connected with such determination of rights under the Act, such as appointment of Collectors for hearing claims and objections, procedure adopted for decision-making on such claims and objections (section 22), processes adopted for making enquiries into existing claims (section 22 (b)), examination of revenue records and Record of Rights, and so on.

The statement instead jumped directly to the next step under the Act and focused from its outset on the pendency and completion of "final notification". As has been pointed out above, the issue of final notification under Section 26A and Section

35 of the Act was conspicuous by its absence from the reliefs sought in the writ petition as well as IA No. 2, nor was any direction regarding the issue of final notification passed by the Court in its interim order of 22nd August 1997. At no point during the pendency of the present petition has the Supreme Court passed directions regarding issue of final notifications. Nor has the Supreme Court passed directions seeking information regarding the status of issuance of final notifications.

It is therefore inexplicable that even though the information was clearly available, the petitioner has chosen to ignore the issue of quality and status of determination of rights, as directed by the Court, and has instead shifted the focus to a completely extraneous subject, namely, issuance of final notifications. It is difficult to understand where the petitioner has drawn the legal basis for examination of the issue of final notifications by the Court.

At the next date of hearing on 23rd November 2005 the Court after examining the statement prepared by the petitioner WWF- India and also hearing its counsel, appears to have refused to go as far as to examine whether final notifications have been passed. Instead, the Court chose a more nuanced approach and has restricted its examination to whether "determination of rights and acquisition of land or rights as contemplated by the Act" has taken place. This is apparent from a reading of the following order passed on the 23rd of November 2005:

"On 22nd August, 1997, this Court after noticing that even though notifications in respect of sanctuaries/national parks have been issued under section 18/35 in all States/Union Territories, further proceedings as required under the Act i.e. issue of proclamation under section 21 and other steps as contemplated by the Act have not been taken, and thus all the State Governments/Union

Territories were directed to issue the proclamation under Section 21 in respect of the sanctuaries/national parks within two months. It was further directed that the process of determination of rights and acquisition of land or rights as contemplated by the Act shall be completed within a period of one year.

Mr. Panjwani states that though proclamations under section 21 were issued, but it appears that the process of determination of rights and acquisition of land or rights as contemplated by the Act still remains to be completed by many State Governments/Union Territories despite lapse of nearly seven years, having regard to the time granted in the order dated 22nd August, 1997. Learned counsel has taken us through various provisions of the *Wild Life (Protection) Act* in relation to obligation of completing the process of determination, as directed by this Court.

Under these circumstances, we direct the State Governments/Union Territories to file affidavits, placing on record, the status as existing on 1st November, 2005 in relation to compliance of the aforesaid direction."⁵⁸

Six weeks time was granted for the filing of these affidavits, yet more than nine months later when the case was heard on 29th August 2006, the Court found that large number of State governments had still not filed their status reports. It further observed that on the basis of the affidavits which had been filed the following position emerged:

"the matter of completing the process of determination of rights and acquisition of land or rights as contemplated by the Act in respect of some of the National Parks and Wildlife Sanctuaries has still not been completed despite lapse of so many years. Mr. Raj Panjwani, learned counsel, points out that it has not been completed in 14 out of 85 National Parks and 170 out of 494

Wildlife Sanctuaries, as per the affidavits placed by the State Government on record."⁵⁹

Recent Developments

Till the time of writing, a majority of the State governments have filed their affidavits in purported compliance of the Court's orders. A wealth of information lies inside these affidavits regarding the process of determination and settlement of rights of tribals and forest dwellers living in and around protected areas. The responsibility for analyzing this information and placing it before a Court already beleaguered by the size of this litigation, lies squarely on the petitioner WWF-India. Moreso because in the present case, unlike the *Godavarman case*,⁶⁰ intervention applications by organisations representing the interests of forest dwelling communities and tribals have not been filed, and the one that was filed in 1998 was dismissed.

Some indications of the direction the petitioner WWF-India intends to take this issue have, however, emerged in the last year. While the contents of the affidavits filed by the State governments have been examined in detail in the next chapter, it is important to point out that many State governments have gone on record to state that relocation of tribals and forest dwellers from protected areas is next to impossible, and expressed their helplessness. In this context, when the matter came up for hearing on 11.1.2007, the petitioner WWF-India pointed out to the Court that several State governments have been raising a number of problems related to finalization of the process of settlement of rights in protected areas. As an illustration, the petitioner directed the attention of the Court

58. Order dated 22.11.2005, WP 337 of 1995, unreported.

59. Order dated 29.8.2006, WP 337 of 1995, unreported.

60. For a detailed listing of the applications filed on behalf of tribal and forest dwelling communities pending in the *Godavarman case* see: *Contested Terrain: Forest Cases in the Supreme Court of India* by Shomona Khanna and Naveen TK, SRUTI (April 2005).

to the affidavit of State of Maharashtra,⁶¹ which listed the following reasons:

- i] Want of consent of the people for rehabilitation outside protected areas;
- ii] Identification of the sites for rehabilitation with the consent of the people;
- iii] The process involved in preparation of proposals for diversion for forest land identified for the relocation; and
- iv] Non- availability of funds for the rehabilitation.

The petitioner WWF-India argued that these difficulties have been expressed by other State governments as well and should be referred to the National Board for Wildlife (NBWL) for seeking its opinion in the matter. The Court directed the NBWL to consider these difficulties and submit its report.

"For the present, we refer the reasons for delay pointed out by the State of Maharashtra, as afore-noted, for the National Board for Wildlife and direct them to send their report within six weeks."⁶²

Receiving no response from the NBWL, the Court again reiterated its direction on 14.11.2007 as follows:

"The State Governments have issued several notifications declaring their intention to constitute sanctuaries in certain areas under Section 18 of the Wild Life (Protection) Act, 1972. But we are informed that final declarations have not been made under Section 26A of the Act declaring such areas as sanctuaries. Before making such final

declaration, the Act contemplates several acts such as issuing proclamations (Section 21), inquiry by Collector and admission or rejection of claims (Sections 22 to 24) and acquisition of lands/rights (Section 25 and 25A). The question of rehabilitation of large number of people residing within the Sanctuaries is also a serious issue to be tackled before a final declaration is made under Section 26A of the Act. The State Governments have referred to various problems and the lack of sufficient funds for implementing the provisions and have sought allocation of funds from the Union Government.

"We feel that this question may also be examined by the National Board for Wild Life ('NBWL') for short), headed by the Prime Minister. The Director of Wild Life Preservation, who is the Member Secretary of the National Board for Wild Life is directed to file a Report before this Court within eight weeks about the action to be taken for completing the requirements of Chapter IV of the Act.

"The State Government may also endeavour to complete the proceedings under Section 24 of the Act, without delay."⁶³

During the same hearing, the Court also considered an application filed by the State of Madhya Pradesh pointing out the difficulties it has been facing with regard to re-settlement and re-location of persons living in protected areas. This application was directed to be tagged and heard along with IA No. 2.⁶⁴

Till the time of writing, the report/recommendation of the National Board of Wildlife on this vital issue remains awaited.

61. Affidavit filed on 20th November, 2006, by Principal Chief Conservation of Forests (Wildlife), Government of Maharashtra in IA no. 2 in WP 337 of 1995.

62. Order dated 11.1.2007, WP 337 of 1995, unreported.

63. Order dated 14.11.2007, IP 337 of 1995, unreported.

64. IA No. 92 in WP No. 337 of 1995 filed by State of Madhya Pradesh.

4

ANALYSIS OF AFFIDAVITS FILED BY RESPONDENT STATE GOVERNMENTS

As stated earlier, over the last 12 years, several affidavits have been filed by the Union of India, the State governments and Union Territories to place on record the status of their compliance with various orders passed by the Supreme Court. The process of determination of rights and settlement and acquisition of rights fell off the radar after a few hearings in 1999, around which time the first round of affidavits was filed by most State governments. After the petitioner WWF-India brought up the issue again on 26.7.2005, the Court called for fresh affidavits from all the State governments placing the current position on determination of rights and acquisition of land or rights. Over the past year or so, therefore, a second round of affidavits has been filed by most of the respondent State governments. Placed together, these affidavits make interesting reading and reveal new insights into the processes that have been set in motion as a result of this PIL.

During the course of this study, the author was able to inspect the original Court record and examine many of these affidavits relating to the issue of proclamation and settlement of rights in protected areas. The main contents of these affidavits have been placed in **Appendix E**.

As expected, the 1 year deadline fixed in the order dated 22.8.1997 has long expired, and the process of determination and settlement of rights in protected areas is far from

complete. It is interesting that while on the surface most State governments appear to be tamely following the orders of the Court, or at least trying to, some of the arguments raised by them directly as well as indirectly advert to the enormous folly of attempting to uproot hundreds of thousands of people from their traditional habitats inside subsequently classified protected areas. The State governments have therefore informed the Court that the process is delayed and cited various reasons for the delay. Only one State, namely Kerala, has actually notified more protected areas than it started out with at the commencement of the *WWF* case. The affidavits filed by the State governments put forward several reasons for the delay, which are examined below.

Finances

Apart from four States (Chandigarh, Haryana, Meghalaya, and West Bengal) which have made bald statements that settlement of rights is complete, almost all the State governments have professed their inability to settle rights of people inside protected areas due to the massive financial implications of acquiring these rights and the re-location of these persons and their rights elsewhere. Some of these States are Bihar, Goa, Himachal Pradesh, Jammu and Kashmir, Madhya Pradesh, Mizoram, Orissa, Rajasthan, Dadra and Nagar Haveli and Tripura. Some States have argued that finances are required not only for settlement

of rights and relocation, but also for setting up of alternative livelihood options. Thus, Himachal Pradesh has stated with respect to the long pending proceedings around the Great Himalayan National Park as follows:

"In pursuance of the award of the District Collector Kullu, the State of Himachal Pradesh also prepared long term plan for the development of the area and the park on which an amount of Rs.7,24,31,000/- is proposed to be spent. This amount is proposed to be spent on development of pastures plantation, medicinal plants, afforestation, raising of nurseries, soil conservation works, maintenance of plantations and pastures to benefit people in the eco-zone surrounding the park so that acquisition of the rights in the park does not adversely effect the livelihoods of the people previously dependent on the park. Since the above plan can be implemented only in case adequate funds are available, the State has requested the Court to grant 5 years time to enable the State to implement the plan **so that the economic status of the local inhabitants does not get adversely affected and they extend co-operation to the park management in protecting the flora and fauna within the park.**"⁶⁵ (emphasis supplied)

In addition, the State of Madhya Pradesh has raised a specific objection to the demand of the MoEF for payment of NPV for forest lands which have been earmarked for relocation of persons from inside protected areas, and has even filed a separate application seeking directions from the Court in this regard.⁶⁶

Rationalisation of boundaries

A few State governments have taken the above argument further and informed the Court of their inability to relocate large

populations from inside protected areas, especially from inside national parks where the Act does not permit any form of continued habitation. Therefore, they argue, they have no option but to remove certain highly populated areas from inside the proposed protected areas, rather than relocate such large populations from the national parks to areas outside. The State governments which have quite openly discussed this in their affidavits are Karnataka, Madhya Pradesh, Mizoram, and Orissa.

The Union of India in its affidavit refers to the **Task Force for Rationalisation of Boundaries of National Parks and Sanctuaries** set up by it for this purpose. In an affidavit filed before the Court, the Union government has stated:

"As the State Governments are required to pay substantial amount as costs of acquisition of rights in the National Parks and Sanctuaries, the Ministry of Environment & Forest has set up a Task Force for Rationalization of Boundaries of National Parks and Sanctuaries. In the process the Task Forces have been requested to look into all such cases where large extent of Wild Life habitats is proposed to be excluded from the National Parks and Sanctuaries."⁶⁷

The Union of India urged the Supreme Court to direct all the State Governments not to exclude any area from National Parks and Sanctuaries till the Task Force submits its report.

The State of Madhya Pradesh, while waiting for the opinion of the Central government Task Force, has set up its own Sub Committee on 13.9.2000 with its key task being:

65. Affidavit dated 25.11.1999 filed by the State of Himachal Pradesh in IA no. 2 in WP (C) 337 of 1995.

66. IA No. 92 in WP No. 337 of 337 filed by State of Madhya Pradesh. This application has now been tagged with IA No. 2 relating to determination and settlement of rights.

67. Affidavit dated 16.3.1999 filed by the Union of India in WP 337 of 1995.

"For each National Park and Sanctuary the Committee after evaluating all conditions and on the basis of positive and negative factors, shall recommend whether they should continue in their existing form or their boundaries should be de-notified. While recommending, this should be kept in mind that there should be least relocation of habitations/ villages from these areas."⁶⁸

Continuation of rights, including habitations

Another solution to the problem which some of the State governments have openly acknowledged, is the continuation of rights and habitations inside wildlife sanctuaries consequent to the final notification, relying upon section 24(2)(c) of the Act. These States include Madhya Pradesh, Orissa, Punjab and Uttar Pradesh. While the State of Punjab is matter-of-fact about the impossibility of removing the settlements of the Bishnoi Community from inside the Abohar Wildlife Sanctuary,⁶⁹ the State of UP states:

"The State Government has decided that the private land within the Sanctuaries will not be acquired and people will not be relocated from the Sanctuaries."⁷⁰

It is, however, a matter of concern that a majority of the State governments even while acknowledging the difficulty of relocating large populations from inside protected areas, have not adverted to the powerful tool contained in Section 24(2)(c) of the Act. It is of even greater concern that not a single State government has come up with the idea to convert these problem areas into Community Reserves or Conservation Reserves.

Consensual/ voluntary Relocation

The State governments of Madhya Pradesh, Maharashtra, Orissa, Rajasthan and Uttar Pradesh have gone on record before the Supreme Court to say that their State Policy is to never adopt forcible eviction, and it is only if the local populations are convinced about the need to move out of protected areas and do so voluntarily can the orders of the Court be fully complied with. Thus, Madhya Pradesh states:

"The State Government after great deliberation has evolved the policy not to evict people from any National Park or Sanctuary forcibly. Relocation shall be done in a phased and consultative effort of concerned villages. First, those villages where villages are willing to shift or they are persuaded to understand the need for relocation and their acceptance is voluntarily given will be relocated. The process of persuasion through conservation awareness program may not happen within a specified time. State therefore, prays for reasonable time to tackle this socially, culturally, economically and politically sensitive issue, which involves human rights issue."⁷¹ (emphasis supplied)

To many forest dwellers and tribals living inside protected areas and facing the full force of state machinery engaged in their eviction from these areas, it would come as a surprise that their governments have taken a noble stand before the Supreme Court. If such admirable intentions were reflected in the actions of the State governments at the ground, certainly there would be little reason for even a document such as this.

68. Affidavit dated 29.9.2000 filed by the State of Madhya Pradesh in IA no. 2 in WP (C) 337 of 1995.

69. Affidavit dated 16.12.2005 filed by the State of Punjab in IA no. 2 in WP (C) 337 of 1995.

70. Affidavit dated 9.11.2001 filed by the State of Uttar Pradesh in IA no. 2 in WP (C) 337 of 1995.

71. Affidavit dated 9.6.2061 filed by the State of Madhya Pradesh in IA no. 2 in WP (C) 337 of 1995.

Time consuming settlement process

The States of Himachal Pradesh, Karnataka, Madhya Pradesh and Rajasthan have all submitted in their affidavits that the process of settlement of rights and acquisition of land as prescribed under the 1972 Act is time consuming and long drawn out, and also because they are dealing with a human problem, it is not possible to shorten this process.

Litigation

Interestingly, only three states, namely, Assam, Delhi and Rajasthan, have cited litigation at the District and the High Court level as an obstruction in the process of implementation of the Supreme Court's orders. This is a reflection of the hesitation of the subordinate judiciary to interfere against the orders of the Supreme Court in not only this but all Forest related issues, even though many of these orders are interim in nature and sweepingly dismissive of existing statutory frameworks.

Other reasons

- i. *Shortage of land:* The Union Territory of Daman and Diu in an earlier affidavit cited shortage of land as a reason why the process of settlement of rights cannot be taken any further.
- ii. *Militancy* has been cited as a reason for inability to implement the Court's orders in time by States of Assam and Jammu and Kashmir.
- iii. Jammu & Kashmir also cites *destruction of records* in a fire as another reason why the process has been delayed.

A reading of the summaries of State government affidavits placed in the **Appendix E** reveals that the State governments have by and large fallen in line with the exclusionary approach to conservation, and are purportedly making every effort to re-locate persons living inside National Parks and Wild Life Sanctuaries. While some State governments have been quite open about their recommendation that densely populated areas be excluded from the boundaries of the National Parks/ Sanctuaries, it is appalling that not one State government has taken a stand that a people's rights oriented approach to conservation is not only more manageable, but also more sustainable in the long run. The notion of Peoples' Protected Areas introduced in the *Wild Life Protection Act* through the creation of Community Reserves and Conservations Reserves has not been brought to the notice of the Court at all. Apart from a few references to "human rights" there is no real challenge to the approach being adopted by the Court, an approach which is no longer sustainable under the relevant statute itself.

But even more than the re-incarnated *Wild Life Protection Act*, the recently enacted *Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006* potentially holds the most potent challenge to the Supreme Court's approach to conservation in the *WWF case*. Recognising that the process of determination and settlement of rights of tribals and forest dwellers inside protected areas in particular, and forests in general, has been followed more in the breach, the 2006 Act provides a statutory framework for the redressal of this historic wrong through re-opening the process of determination of rights and provides a democratic mechanism through which such process is to be conducted.

5

ENCROACHMENTS AND REGULARISATION OF LAND RIGHTS

Having established that the Court has not passed any orders in the *WWF case* directing relocation of tribals and forest dwellers from inside protected areas, the next step is to examine what the Court has had to say regarding recognition/ derecognition of land rights in protected areas. While some case-specific orders have been passed in the *WWF case* on the subject, the developments in the *Godavarman case* are of vital importance.

Developments in the Godavarman case

At the outset, it is important to state that the orders passed by the Supreme Court in the *Godavarman case* on the issue of regularisation of encroachments are applicable to protected areas as well. A detailed examination of these orders and their implications is made by this author elsewhere,⁷² but for the sake of clarity the position is re-stated below.

Intervention of the Amicus Curiae: IA 703

The attention of the Supreme Court in the *Godavarman case* during the initial years was focused on the subject of illegal tree felling and protection of forest wealth. The subject of regularisation of land rights of forest dwellers living inside forests was brought to its attention initially on a case-

by-case basis, with IAs being filed for removal of so called encroachments from particular reserve forests or States. The first application for an omnibus order on the subject of encroachments on forest lands came from the Amicus Curiae who filed IA no. 703 on 23.11.2001 which painted a gloomy picture of massive illegal encroachment over forest land all over the country. This was a generalised application and sought general directions, one of which was granted immediately by the Court by way of an interim order. Issuing notice to the respondents the Court directed that:

"An application has been filed by the Id. Amicus Curiae in Court against the illegal encroachment of forest land in various States and Union Territories is taken on board. Let the same be registered and numbered. Issue notice to the respondents returnable after six weeks. There will be an interim order in terms of prayer (a)."⁷³

This cryptic order is incomprehensible by itself, and therefore prayer (a) in the IA filed by the Amicus is reproduced below:

"(a) Restrain the Union of India from permitting regularisation of any encroachments whatsoever without the leave of this Hon'ble Court".

Since the term "forest land" is generally understood to include protected areas, the above 'interim' order injuncting the

72. See *Contested Terrain: Forest Cases in the Supreme Court of India* by Shomona Khanna and Naveen TK, SRUTI (2005).

73. Vide order dated 23.11.2001, unreported.

regularisation of encroachments has operated against forest dwellers living inside national parks and sanctuaries for the last 6 years.

Report of the Central Empowered Committee

The issue of encroachments and their regularisation was examined by the newly set up CEC in its report dated 5th August 2002.⁷⁴ It is important to clarify that these recommendations have never been considered by the Court, and no orders have been passed either accepting or rejecting them. The key recommendations of the CEC report were:⁷⁵

Strict prohibition of all further regularisation of encroachments in forest lands in any form including issue of pattas, ownership certificate, certificate of possession, lease, renewal of lease etc., except in cases where eligibility for regularisation exists under the 1990 guidelines;

- ◆ the Preliminary Offence Report under the relevant Forest Act will be the basis to decide date of encroachment;
- ◆ whether an area is a forest or not will be resolved on the basis of forest department records, and only in their absence will other relevant government records be relied on;
- ◆ all ineligible encroachments be evicted forthwith;
- ◆ constitution of state level committees for the supervision and coordination of removal of encroachments;
- ◆ failure of State governments to remove encroachments to invite

penalties as compensation for environmental losses;

- ◆ liberty to State Government to provide suitable rehabilitation package;
- ◆ already regularised encroachments on forest land to be made non-transferable and only heritable.

Responses from State governments and civil society

The order dated 23.11.2001 and the CEC report drew strong reactions from the State governments as well as civil society organisations. A number of State governments filed affidavits before the Court in response to this report, raising serious objections and concerns, and several State governments also filed applications for modification of this order. In addition, Interlocutory Applications were also filed before the Court by NGOs, peoples organisations, and concerned individuals, objecting to the sheer folly of this approach which attempts to displace lakhs of traditional forest dwellers from their homes and way of life, and also placing on record the national and international legal and jurisprudential framework with regard to rights of forest dwellers and tribals over forests. These applications have been pending for several years, but have not come up for a substantive hearing even once.

Further intervention of the Amicus Curiae: IA 1126

On the eve of the 2004 general elections, the Amicus Curiae filed another IA No. 1126⁷⁶ bringing to the notice of the Court 5 government orders passed by the Central Government as well as the States of Madhya

74. This report was numbered as IA 824 by the Court.

75. Recommendations of the Central Empowered Committee in IA no. 703 in IA no. 502 in Writ Petition (C) No. 202 of 1995, Supreme Court of India.

76. Filed in Court on 23.2.2004 by the Amicus Curiae.

Pradesh, Tripura, and Maharashtra regarding recognition of rights of tribals and forest dwellers over forest land.⁷⁷

This application was filed and taken on board by the Supreme Court on 23rd February 2004, and the following order was passed staying the operation of all the aforesaid Government Orders:

"...In the meantime, Annexures P-1, P-2, P-3, P-4 and P-5 dated 5.2.2004, 3.2.2004, 7.10.2003, 6.2.2004 and 13.1.2004 respectively, to the I.A., shall not be implemented."⁷⁸

Affidavit dt. 21.7.2004 filed by MoEF

In response to this order, the MoEF filed an affidavit in reply on 21st July 2004 seeking revocation of the stay on the implementation of the injuncted government orders, and citing several reasons why this is imperative.

➤ At the core of the argument made by the Union government in this affidavit lies the acknowledgement that during colonial rule "for most areas in India, especially the tribal areas, record of rights did not exist due to which rights of the tribals could not be settled during the process of consolidation of forests in the country. Therefore, the rural people, especially tribals who have been living in the forests since time

immemorial, were deprived of their traditional rights and livelihood and consequently, these tribals have become encroachers in the eyes of law."⁷⁹

➤ The affidavit further acknowledged that even after Independence in 1947, during the process of amalgamation of princely states, large areas were proclaimed as Reserved Forests "without settlement of tribal rights as the records of rights never existed for tribals".⁸⁰

➤ Quoting extensively from the National Forest Policy, 1988 and its recognition of the "symbiotic relationship between the tribal people and forests", the affidavit goes on to assert that "the Central Government is committed to the recognition of the tribal rights in forest areas".

➤ Further acknowledging that the Central Government on 18th September, 1990 issued a series of guidelines after obtaining the approval of the Union Cabinet for one time settlement of people's rights under the *Forest (Conservation) Act, 1980*,⁸¹ the affidavit points out that only a few State governments have submitted proposals for regularization of eligible encroachments, while there

77. The GOs the IA seeks to challenge are as follows:

- Gazette Notification dated 3.2.2004 regarding the Forest Conservation Rules, 2004 regarding the setting up and the powers of Regional Empowered Committees;
- Letter of IG-Forests dated 5.2.2004 directing all State Governments and Union Territories to take necessary steps to recognise traditional rights of the tribals on forest lands, and incorporate them into state level Acts, Rules and Regulations. The circular brought within its ambit all "those tribal dwellers who are in continuous occupation of such forest land at least since 31.12.1993";
- Letter dated 7.10.2003 of Asst. IG Forests granting approval to State of Madhya Pradesh for modification of legal status of 1,68,840.291 hectares of forest land regularised under encroachments, to be treated as revenue land;
- Letter dated 6.2.2004 of Asst. IG Forests regarding diversion of forest land for a pilot project for relocation of tribals from forest areas in Dhalai district, Tripura; and
- Order dated 13.1.2004 of the Asst IG Forests regarding conversion of 67 forest villages into revenue villages in favour of patta holders in Badwani district, Madhya Pradesh.

78. Order dated 23.11.2004 in IA no. 1126 in WP 202 of 1995, unreported.

79. Affidavit dated 21.7.2004 filed by MoEF in IA 1126 in WP 202 of 1995, @ para 7.

80. Ibid, @ para 8.

81. Ibid, @ paras 16-26

have been no proposals for the settlement of disputed claims over forest lands, which "has deprived the tribals of natural justice."

- The Affidavit asserts that the injuncted government orders do not relate to encroachers, but to remedy a serious historical injustice, and will also significantly lead to better forest conservation.

Unfortunately, this matter has also never been substantively argued before the Court, so that the interim order of 23.2.2004 remains operative till today.

Dilution of position on regularisation of land rights by CEC

There have been indications, nevertheless, that the CEC has diluted its earlier hardline position on the issue of removal of encroachments from forest lands. This has emerged indirectly rather than through a formal retraction of its omnibus recommendations contained in its report of 5.8.2002. The first indication of this came when the CEC was asked to make its recommendation regarding an Application filed by the State of Orissa regarding regularisation of encroachments on 3328.4151 ha of forest land in favour of 3754 families under FP (1) of 18.9.1990. The CEC submitted a report recommending that the approval be granted⁸² and the Supreme Court on 13.4.2006 passed the following order:

"The recommendations made by the CEC in para 8(i) to 8(iv) and para 9 of its report dated 11th July, 2005 are acceptable to the State Government. The State Government is, therefore, permitted to regularize pre-25th October, 1980 encroachments subject to the following conditions

under the overall supervision of the Regional Chief Conservator of Forest, Bhubaneswar, subject to clearance, if any, given by the MoEF:

- (i) Regularization of encroachments in favour of the eligible encroachers will be done simultaneously with the eviction of ineligible encroachers and taking back of excess land in possession of the eligible encroachers;
- (ii) No regularization of encroachments which have taken place on forest land after 25.10.1980 will be done;
- (iii) The MoEF's guidelines dated 18.9.1990 will be strictly adhered to; and
- (iv) Compensatory afforestation over equivalent non-forest land will be carried for which adequate funds will be made available by the State of Orissa."⁸³

Developments in the WWF Case

Interestingly, while the main thrust of the writ petition in the *WWF case* has, from the very beginning been the determination and settlement of rights of persons living inside protected areas, when actual fact situations have been brought before the Court, the negative terminology of 'encroacher' has been adopted, a description which is heavily loaded against the forest dwellers and their claim to any rights at all.

82. Report of the CEC being IA no. 1345 in IA no. 1252 filed by the State of Orissa in WP 202 of 1995.

83. Order dated 13.4.2006 in IA no. 1345 and 1252 in WP 202 of 1995, unreported.

Rajaji National Park: IA No. 34

The issue of removal of 'encroachments' from inside protected areas, which was not within the ambit of the *WWF case* as originally filed, came up quite by chance. Sometime in 2002, an application was filed by Uttarakhand Pey Jal Nigam for use of 0.275 ha hectare of forestland in Rajaji National Park for a Drinking Water Scheme.⁸⁴ The Court asked the CEC to submit a report on the limited question of whether the application should be allowed or not.

The CEC filed its report on 22.9.2003, which was numbered as IA no. 34. The Report, inter alia, notices that the Drinking Water Scheme undertaken by the applicant (Uttarakhand Pey Jal Nigam) is in public interest for which no alternative non-forest land is available, the scheme requires minimum use of forest land and no felling of trees is involved, and that the Scheme is designed for meeting the urgent requirement of drinking water for the Ardh Kumbh Mela and also for the population residing near the Swargashram Laxman Jhoola area. The CEC recommended grant of permission to the applicant subject to certain conditions. Accordingly, the Court passed orders allowing the prayer of the applicant.

However, in the same report the CEC also placed on record certain additional findings. It stated that 2 acres of forestland is under illegal occupation by Kailashanand Mission Trust within the Rajaji National Park. This was taken note of by the Court, and by order dated 22.9.2003 while granting time to the said Trust to file its response, the Court also passed the following direction:

"Having regard to the need to preserve the Rajaji National Park, we direct the Chief Secretary of the State of Uttarakhand to file an affidavit with regard to any other illegal occupation or encroachment in the said Park."⁸⁵

On 7.11.2003, a further direction was made to the Government of Uttarakhand to file a report as to the progress made in the removal of encroachments from within the Rajaji National Park. Drawing strength from these interim orders, the State government appears to have taken upon itself the removal of several Ashrams, Yoga Retreats, and Sadhus from inside and around the Rajaji National Park, terming them as encroachers. This resulted in a spate of applications by the affected persons, and since all the applications are traceable back to the Report of the CEC or IA 34, they are all clubbed together. Details of these applications are provided in **Appendix B**, including:

- ◆ Application for grant of lease for Mauni Baba Gufa and Anna Chhetra, and for permission to perform daily Puja and Arti by Mahant Laxman Dass and re-opening of *langar* (free food) for the pilgrims which was sealed by the forest authorities;⁸⁶
- ◆ Applications by 'Swami Shankardas' disciple of 'Tat Wale Baba' for permission to perform *poojas*, *bhandaras* and meditations in the "Bhoonthnath Caves" at the edge of the Rajaji National Park, from where the applicants had also been evicted and the caves sealed;⁸⁷

84. IA No. 30-32 in WP 337 of 1995.

85. Order dated 22.9.2003 in IA no. 34 in WP 337 of 1995, unreported.

86. IA Nos. 69, 70, 71 & 72 in WP 337 of 1995.

87. IA Nos. 43-45, 81- 82 in WP 337 of 1995.

- ◆ Application filed by Wildlife Trust of India to ensure re-location of 1390 Gujjar families inside the Rajaji National Park.⁸⁸
- ◆ Application filed by Wildlife Trust of India⁸⁹ bringing on record additional facts regarding the mushrooming of several unauthorized commercial establishments around the Rajaji National Park.

As stated earlier, the Court has been dealing with these applications individually on a case by case basis, and has chosen not to pass any omnibus order directing removal of encroachments from protected areas.

Grant of Ek Saali pattas to eligible encroachers in Reserve Forests in Maharashtra⁹⁰

This application was filed in 2004 by State of Maharashtra to modify the order dated 13.11.2000 and for grant of permission for regularization of *ek saali* pattas to 180 Adivasis living inside Reserve Forests. The matter was referred to the CEC, which submitted its report dated 13.7.2004 recommending that the proposal be rejected. The CEC reasoned that as per the information given in the application a total of 2,160.64 ha of forest land is under the occupation of 771 encroachers in this particular forest division. Of this 624.68 ha is occupied by ineligible encroachers and 1,535.96 ha by eligible encroachers (as defined in the 18.9.1990 guidelines). The present IA is only with respect to the eligible encroachers. The CEC observed:-

"It is seen that on one hand large forest areas continue to remain under encroachment with ineligible encroachers, on the other hand piecemeal proposals for

regularization of encroachments are made without first removing the ineligible encroachers. If this trend continues, it may result in more and more forest area being encroached and irreversibly lost. In this case also neither removal of ineligible encroachers is contemplated nor payment towards cost of compensatory afforestation and Net Present Value of forest land is proposed.

"In view of the above, it is recommended that IA no. 54 be disposed off with the direction that the State of Maharashtra should prepare a consolidated proposal for regularization of encroachments on forest land in favour of eligible encroachers including Eksali Plot holders in Ahmednagar district together with a time bound action plan for restoration of forest land by evicting ineligible encroachers."⁹¹

Although subsequently, the Standing Committee for the NBWL also rejected the proposal of the State Government, when the matter came up on 23.3.2007, counsel for the petitioners submitted that the matter takes on a new colour in the light of the newly enacted *Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006*, and would have to be re-examined totally. The Court passed an order permitting the applicant to file a fresh response. At the next hearing on 14.11.2007, the State of Maharashtra informed the Court that it proposes to regularize the '*Eksali*' leases of adivasis. Practically rejecting the earlier reports of the CEC as well as the NBWL, the Court issued a fresh direction permitting the State Government to submit a proposal to the National Board for Wild Life along with the Opinion of the Chief Wild Life Warden,

88. IA No. 52 in WP 337 of 1995.

89. IA no. 95 in WP 337 of 1995.

90. IA no. 54 in WP 337 of 1995.

91. Report of the CEC dated 13.7.2004 in IA no. 54 in WP 337 of 1995; from *Saving India's Forests and Wildlife: Recommendations, Reports of the CEC to the Supreme Court*, Volume II (2005).

Maharashtra within two weeks. It further directed the NBWL to examine the matter and submit a report to the Court. At the time of writing, the report of the NBWL is awaited.

This application is also interesting for another reason. It relates to regularisation of land rights in a Reserve Forest, not a protected area. This type of muddling by applicants, who often file applications relating to protected areas in the *Godavarman case*, and applications relating to Reserve and other forests in the *WWF case*, is quite common. Since the two cases come up before different benches, both hard pressed for time, the approach adopted by the Court is quite uneven, and completely unpredictable.

Diversion of forest land for grant of rights in Chattisgarh⁹²

The State of Chattisgarh has filed this application in 2005, again seeking modification of the interim order dated 13.11.2000, to enable it to divert forest land covering 20,400 ha so that land rights can be granted to 420 villages. This application was referred by the Court to the CEC as well as to the Standing Committee of NBWL, to be considered independently by both.

While the CEC has submitted its report on 3.4.2006,⁹³ the NBWL has yet to take a decision and communicate the same to the Court. When the matter came up for hearing on 23.3.2007, counsel for the petitioner submitted that since this application involved diversion of large tract of forest land in order to grant rights, it would need to be re-examined in the light of the newly enacted *Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006*. While the Court

chose to adjourn the hearing on that day, when the matter came up on 14.11.2007, counsel for the petitioner sought the transfer of this application to the Forest Bench hearing the *Godavarman case*. His request was allowed, and this application is no longer part of the *WWF case*.

When we examine the orders passed by the Court relating to land rights and forest rights of tribals and other forest dwellers living inside forests, including protected areas, we find that that the substantive issues remain moot, and the legal position is governed by numerous 'interim' orders which have never been effectively challenged nor the challenges given a hearing by the Court. When individual fact situations come before the Court, therefore, it tends to rely heavily upon the opinion of the National Board of Wildlife and the Central Empowered Committee, which itself has made its position on the subject clear through its report of August 2002 calling for a severe crackdown on encroachers on forest land. Since the Court relies so much on the CEC, which has on occasion recommended that so called 'eligible encroachments' be permitted regularisation, there may be a tendency to view these orders as a dilution of the general position taken by the Court as well as the CEC.

However, it is important to note that the law on the subject remains unexamined and undecided by the Court, and the interim orders of the Supreme Court remain unaltered; therefore whenever a fact situation is considered individually and the Court is inclined to allow the regularisation of rights, such order is in the form of an exception in the face of the interim orders which continue to operate generally.

92. IA No. 75 in WP 337 of 1995.

93. The author was unable to access a copy of this report, and therefore the recommendations made by the CEC are not known.

Therefore, it is obvious that when the assertion of rights of forest dwellers comes from a protected area, especially a National Park, the Court is even more disinclined to interfere with its own interim orders and to grant any exemption. Given the enormity of the unrecognised rights over forest lands, it is completely unworkable that the legal position is dominated by two or three interim orders which were passed without a proper examination of the statutory law and

the factual situation, and continue to operate unchallenged for years on end without any substantive hearing on the questions of law and fact that remain unanswered by the Court. It is for this reason that the reference made by the Court to the NBWL of the question of determination and settlement of rights, which lies at the core of the *WWF case*, is of significance.

6

DEVELOPMENTS IN LAW RELATING TO PROTECTED AREAS IN CONNECTED CASES

Apart from the *WWF case*, there are a number of other cases pending in the Supreme Court which impact on the law relating to protected areas, the most important among these being the *Godavarman case*. In the present chapter we examine these developments from the perspective of rights of local forest dwelling communities over these lands. Even though the subject matter of protected areas has since 1995 been the domain of the *WWF case*, a number of initiatives have been taken by the Court in the *Godavarman case* as well as other cases which relate directly to the same subject matter.

Extraction of Minor Forest Produce by forest dwelling communities from Protected Areas

In early 2000, the Amicus Curiae in the *Godavarman case* filed an application⁹⁴ against commercial exploitation of national parks and sanctuaries. The Court did not examine the existing legislative provisions on the subject, but while issuing notice to the respondents (which included only the MoEF, and State and Union Territory governments) on 14.2.2000, passed the following interim order:

"In the meantime, we restrain respondents No.2 to 32 from ordering the removal of dead, diseased, dying or wind-fallen trees, drift wood and grasses, etc. from any National Park, Game Sanctuary or forest. If any order to this effect has already been passed by any of the respondent-States, the operation of the same shall stand immediately stayed."⁹⁵

Even though this order was meant to be of an interim nature, it has become carved in stone over the past eight years, thus turning established law under the *Wild life Protection Act, 1972* on its head. Even subsequently, notice was not issued to any of the other Union Ministries concerned, nor to any representatives of tribal or forest dwelling communities or to any persons whose rights to forest produce in these areas had been summarily stopped. Since it is an unreported order, it did not gain any public attention either, and was finally tracked down only after the forest departments began to curb the legal rights of local communities to extract forest produce from national parks and sanctuaries.

Not surprisingly, the order has been the subject matter of a number of applications before the Court seeking clarifications and modifications, by a variety of interest groups. These include:

94. IA no. 548 in Writ Petition No. 202 of 1995.

95. Vide order dated 14.2.2000 in IA no. 548 in WP (Civil) No. 202 of 1995; unreported.

- ◆ The word "forests" was deleted from this order, thus restricting its operation only to protected areas.⁹⁶

- ◆ Upon a representation by the State of Rajasthan, the Court held that:

"it is clarified that the said interim order will have no application in so far as plucking & collection of tendu leaves is concerned".⁹⁷

- ◆ In a subsequent clarification,⁹⁸ the Court stated that:

"It is clarified that the order of this Court prohibiting cutting of trees does not apply to bamboos including cane, which really belongs to the grass family, other than those in the national parks and sanctuaries. In other words, no bamboos including cane in national parks and sanctuaries can be cut but the same may be cut elsewhere."

Each time the Court has compounded the problem by passing further interim orders without referring to either the statutory provisions, the existing practice, or seeking the assistance of any person/s other than the 'parties' to the case. The matter was referred to the CEC which submitted its report in November 2004.

Report of the CEC in IA 548

The report of the CEC in IA 548⁹⁹ regarding commercial exploitation of protected areas recommends that the following clarifications be made by the Court:

- ◆ *Clarification about allowing conservation and protection related activities for better*

management of the protected areas: that habitat improvement activities, fire protection measures, management of wet grassland habitats, communication and protection measures, as well as anti-poaching initiatives which satisfy certain criteria, are exempted from seeking permission from the Supreme Court.

Clarification about prohibited activities: To ensure greater clarity regarding which activities are prohibited in protected areas, the CEC recommends that an order be passed specifically prohibiting the following activities, unless they are undertaken for the purpose of conservation itself:

- ◆ felling of trees and their removal;
- ◆ removal of bamboo or grasses for any purpose whatsoever;
- ◆ removal of corals and other living forms from marine national parks/ sanctuaries;
- ◆ construction of tourist complexes, hotels, restaurants, zoos, safari parks or any other building not for direct use for protection and management of wildlife and its habitat;
- ◆ removal of sand and boulders to any place outside the protected areas;

96. Vide order dated 28.2.2000 in IA no. 548 in WP (Civil) No. 202 of 1995, unreported.

97. Vide order dated 3.4.2000 in IA no. 548 in WP (Civil) No. 202 of 1995, 2000 (4) SCALE 168.

98. Vide order dated 18.2.2002 in IA 707, as quoted in Saving India's Forests and Wildlife, Sanctuary, Mumbai, November 2003, p. 31.

99. The interim report of the CEC in IA No. 548 for clarification/ modification of Order dated 14.2.2000 was numbered IA No. 1220.

- ◆ survey, prospecting, and mining; including old, new as well as temporary working permissions;
- ◆ laying of transmissions lines, construction of irrigation projects, power projects, etc;
- ◆ laying of industrial pipelines for oil, water, slurry, etc.
- ◆ mineral and oil exploration;
- ◆ dumping of garbage, sewage, waste and discharge of industrial effluents.
- ◆ *Exemption of small public utility projects of non-commercial nature* from the cumbersome approval procedure currently in place: these include underground water pipelines of upto 4 inch diameter, distribution lines upto 11 KV for supply of electricity to rural areas, telephone lines or optical fibre for communication facilities; wells, handpumps, small water tanks for water supply to villagers who are yet to be relocated from the protected areas.
- ◆ *Formulation of a Management Plan Code* on the pattern of the Working Plan Code by the MoEF, in the form of a Manual.
- Establishment of a Technical Cell at the Wildlife Institute of India* to work in coordination with NBWL and MoEF, to facilitate the preparation and implementation of Management Plan of the highest technical standard.

Conspicuous by its absence from the proposed list of prohibited activities is the

removal of minor forest produce (other than bamboo and grasses) by forest dwellers and tribals for their livelihood needs.

Application filed by Vasundhara and Kalpavriksh

Rather than apply its mind to these critical issues, the Supreme Court kept the matter in abeyance for several years, even while the CEC itself issued its own directives to the State forest departments in purported compliance of the Court's orders. With the situation becoming increasingly intractable, a joint application was filed by **Vasundhara and Kalpavariksh**¹⁰⁰ placing evidence before the Court of the havoc being wrecked by its orders. It is a matter of concern that when this application came up for hearing the Court directed the CEC to submit its response. One would have thought that since apart from the Court's orders, it is a report of the CEC as well as its various directives which are being challenged in this Application, the Court would have either examined the issue itself or referred it to an independent Committee for examination.

Instead, while this Application has been waiting for its turn at a fair hearing along with hundreds of other applications relating to a whole host of forest issues in the *Godavarman case*, and the CEC has still to submit its response the Supreme Court chose to hear and dispose of the issue on 14th September 2007 with reference only to the Report of the CEC (being IA no. 1220 in IA 548 in WP 202/95). On the said date, none of the other IAs relating to the same subject matter were listed, which includes the IA filed by Vasundhara and Kalpavariksh and the State govt. IAs on the same subject. Hearing only the submissions of the Amicus

100. A copy of this application is available with the author for reference.

101. *Coorg Organisation for Rural Development (CORD) and another vs. State of Madhya Pradesh and ors*; Writ Petition (C) No. 514 of 2006.

Curiae in the *Godavarman case*, the Court passed the following order:

"The CEC has filed an interim report wherein it has stated that this Court passed on order dated 14.2.2000 by which certain activities were expressly prohibited...

But it was not specifically stated as to what permitted activities could be done in the forest which may not have any commercial concern. In the CEC report it has been stated that the removal of weeds, clearing and burning of vegetation for fire lines, maintenance of fair weather roads, habitat improvement, digging, temporary water holes, construction of anti-poaching camps, chowkies, check posts etc. may be essential for maintenance of forests and for the prohibition and supervision of the forests for the Forest Department. We permit all these activities to be done though they do not come within the purpose of order passed on 14.2.2000. It is also stated that the following activities may also be permitted:

- (i) laying of underground drinking water pipelines up to inch diameter;
- (ii) laying of 11 KV distribution lines for supply of electricity to rural areas;
- (iii) laying of telephone lines or optical fiber for providing communication facilities in rural area;
- (iv) wells, hand pumps, small water tanks etc. for providing drinking water facilities to villagers, who are yet to be relocated from the protected area.

In addition to the above, the Anganwadies, government schools and government dispensaries which are essential for the inhabitants of people who are nearer to these forest areas shall continue and the Government may carry out construction activities in the forest area for the said purposes without there being any cutting or falling of trees.

The States may file application for clarification, if any of the States have any other difficulty. It is open to them to make any appropriate suggestion in this regard.

I.A. is disposed of accordingly."

The unconditional reliance placed by the Supreme Court on the reports of the Central Empowered Committee in the *Godavarman case*, without even listing the connected applications, leave alone granting a fair hearing to the points or view of the different parties involved, has become a tremendous stumbling block to the articulation of the forest rights of traditional forest dwellers and tribals inside the Courtroom. That the disposal of such a vital issue regarding protected areas takes place in the *Godavarman case*, which is in no way connected with the *WWF case*, serves only to mystify the process of justice further.

Peoples' Rights Approach to Conservation

Although there are no applications pending in the *WWF case* which advocate a peoples' rights approach to conservation, a writ petition filed in 1998 by **Coorg Organisation for Rural Development**¹⁰¹ (CORD) attempted to do precisely this. The

102. *Naveen Raheja vs. Union of India & Ors*; Writ Petition (C) No. 47 of 1998.

103. Annexed to the writ petition is a report authored by the Petitioner which begins with a poem entitled "Ode to the Royal Bengal Tiger". Among other reasons for the dismay of the tiger, the poem states:

"Even the tribal who was my traditional co-predator
Has now been turned into my professional executioner."

writ petition raises fundamental questions relating to the ideological and scientific foundation of the conservation strategies of the state in general, the *Wild Life Protection Act, 1972*, and the directions passed by the Court in the *WWF case* in particular. It goes to the root of the matter by questioning the legal and constitutional basis of the power assumed by the State to remove tribals from protected areas, who have, it asserts, a natural right to their life and livelihood which depends on these forests.

Unfortunately, this remarkable writ petition has come up for hearing only once, and has fallen off the map after that. There is a real need to breathe life into this comatose petition and revive the issues it raises, especially in the light of the revived interest of the court as well as the petitioner WWF-India in the completion of the process of settlement of rights and final notification of protected areas. It is even more critical in the light of the fact that there is no other surviving challenge to the exclusionary conservation approach adopted by Court in the *WWF case*, an approach which has been rejected by not only tribal and forest dwelling communities, but also by various amendments to the *Wildlife Protection Act, 1972* as well as the recently enacted *Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006*.

Tiger Conservation and Tiger Reserves

Naveen Raheja Case

A writ petition filed as far back as 1998, the *Naveen Raheja case*¹⁰² was filed in public interest to point out the lack of will on the part of the Government of India and the

State governments in taking effective steps to prevent the extinction of tigers. Mr. Raheja was at that time an Honorary member of the Tiger Crisis Cell set up by the MoEF, which he pointed out in the writ petition, had not met even once. The petition placed reliance on various documentation to show that tigers are being extensively poached for their skin and body parts, and there is complete apathy on the part of the state machinery to prevent this. As a result, the tiger population is declining at an alarming rate. The petitioner sought to bring to the notice of the Court the huge delays in disbursements of funds by the Central government to the State governments for the purpose of tiger conservation, in particular to Project Tiger. Although the petition assigned several other reasons for this, it is important to note that one such reason for the decline of tiger population was stated to be high population pressure on the peripheries of tiger populated areas, and the pressure of these population on the forests for forest produce, grazing, as well as the involvement of many such populations in poaching activities.¹⁰³

The writ petition filed under Article 32 does not make any claim of violation of fundamental rights under Part III of the Constitution, and does not even make a pretense of trying to establish its maintainability. Yet it sets out to seek a number of writs to be issued by the Court, such as immediate steps to stop poaching of tigers, implementation of a time bound strategy for the protection of the tiger, shifting of all highways and roads to outside Tiger Reserve Areas, amendment of the law to plug loopholes, and revamping of allocation of funds to field directors of Project Tiger. One prayer which bears reiteration is:

104. *Bombay Natural History Society & Ors vs. Union of India & Ors*; Writ Petition (C) No. 514 of 2006. The affidavit attesting the writ petition has been signed and affirmed by Mrs. Belinda Wright of WPSI.

"d) A writ of mandamus calling upon the respondents to immediately shift the communities which are illegally occupying forest areas and also the communities which are hunters by nature away from the tiger reserve areas."

Notice was issued by the Court, and since then it has been coming up for hearing at regular intervals over the last 10 years. The initial hearings of the case saw the Court express its concern regarding the status of steps taken by the Government to save the population of tigers from extinction and to curb the menace of poaching.

In July 2000 news broke of the death of 12 tigers in the Nandan Kanan Zoo, Orissa, as well as the skinning of a tiger inside a zoo in Andhra Pradesh. This was brought to the notice of the Court, which took upon itself to expand the scope of the writ petition to also examine the status of tigers in captivity inside zoos. Considerable time of the Court was taken up by this issue over the years, and several directions were also issued on the subject.

More recently, the Court has been seized of the issue of delay in disbursement of funds for tiger conservation to the implementing agencies, as a result of which several interventions which were season specific could not be made.

Although the issue of rights of tribals and forest dwelling communities being curbed within tiger reserves and other protected areas has not come up before the Court in this case, the subject does form part of the pleadings, including some of the documents which are annexed to the petition, and also a specific prayer is made in this regard. In addition, affidavits filed by the Union government refer to the non-

implementation of the orders of the Supreme Court in the *WWF* case regarding settlement of rights and "relocation" of people from protected areas. They also refer to the need to strengthen the Eco Development Projects initiated by the State governments to reduce human pressure on the forests which form the habitat of tigers. It is therefore important to recognise the possibility that the subject may be brought to the attention of the Court in future.

Bombay Natural History Society Case

More recently, a writ petition has been filed jointly by Bombay Natural History Society, Wildlife Protection Society of India, Wildlife First, and Conservation Action Trust in public interest out of concern about the fate of the tiger and its habitat.¹⁰⁴ At the core of this writ petition lies a challenge to the constitutional validity of the 2006 Amendment to the *Wild Life Protection Act, 1972*, commonly referred to as the 'Tiger Amendment'. Apart from the Union of India through MoEF (respondent no. 1) and the Tiger Conservation Authority (respondent no. 2), several States and Union Territory governments have been arrayed as respondents. This petition makes several innovative arguments, including:

- ◆ that 'heritage', including 'wildlife', falls within the compendious expression "right to life and liberty" as enshrined in Art. 21 of the Constitution of India;
- ◆ that declaration of an already notified sanctuary or national park as a tiger reserve would impliedly repeal the earlier notification and would tantamount to de-reserving such sanctuary or national park which

105. Through the Ministry of Environment and Forests.

106. Order dated 7.9.2006 in WP (C) 514 of 2006, unreported.

would be in violation of the Supreme Court's order dated 13.11.2000;

- ◆ that terms such as 'rights of local people', 'rights of...such other forest dwellers', and 'due recognition of ...cultural rights of local people' are vague and delegate unguided and unfettered power to regularize and/or compensate even traditionally non-forest based occupiers and encroachers;
- ◆ "'Co-existence' of human species with large carnivorous wild animals is a myth based on utopian visions deriving its sustenance on folklore... If co-existence was feasible, wild animals, ages ago, would have been domesticated just as horses, dogs and pigs." (@ para 2)

It PRAYS for a writ or order:

- ◆ declaring the provisions of sub-section (2) of Section 38V of the *Wildlife (Protection) Act* to be ultra vires of Article 21 of the Constitution or in the alternative, declare that the provisions contained in Chapter IV of the said Act would continue to govern and apply to the already existing sanctuaries and national parks, irrespective of such areas being notified as a tiger reserve;
- ◆ declare that the expression "the rights of local people" in Section (2) of Section 33-O; the expression "the rights of ... such other forest dwellers" in explanation (i) to sub-Section (4) of Section 38V and the term "other forest dwellers" in sub-

Section (5) of 38V as arbitrary and violative of Articles 14 and 21 of the Constitution.

This writ petition can claim to be one of the few in the history of the Supreme Court which was given a preliminary hearing *before* it was filed. During the course of a hearing of the *WWF case* on 17.10.2006, counsel for the petitioner WWF- India addressed detailed arguments to the Court regarding the aforesaid Tiger Amendment. Interestingly, when the petition was filed subsequently, WWF-India was not one of the petitioners. When it came up formally for hearing for the first time on 13.11.2006, the Court chose to issue notice only to the Union Government¹⁰⁵ and the newly constituted Tiger Conservation Authority. It appears that subsequently, the petitioners have filed an affidavit seeking to extend the challenge to the constitutional validity of the *Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006* (the 2006 Act). At the last hearing on 7.9.2007 when the writ petition came up for hearing the Court (before a bench headed by the Chief Justice) passed the following order:

"Rule Nisi.

The petitioners are permitted to amend the petition. Adjourned by 8 weeks." 106

It is important to point out that although this writ petition raises issues which directly impact on the lives and livelihoods of tribals and forest dwellers living in and around protected areas, albeit from a wildlife conservation perspective rather than a people's rights perspective, it is currently being heard as a stand alone petition without any connection to any other pending

107. *Goa Foundation vs. Union of India & ors*; Writ Petition (Civil) No. 460 of 2004; Supreme Court of India.

108. 2005 (5) SCALE 276

109. 2005 (5) SCALE 285

110. 2005 (5) SCALE 287; The Court examined the Status report filed by the MoEF relating to a total of 292 units. Of these, 121 were industrial units, and were allowed to continue functioning. Of the remaining 171 mining units, 2 were denied clearance, 18 units were granted clearance, 35 coal mines were allowed to continue functioning, and 64 units were found to be operating prima facie without environmental clearance.

PILs relating to protected areas, such as the *Godavarmaan case* and the *WWF case*.

Buffer Zones around Protected Areas

Sometime in 2004, it came to light that there were approximately 486 mining and industrial units operating in the vicinity of National Parks and Sanctuaries without the requisite clearances under the *Environment Protection Act, 1986*. A writ petition¹⁰⁷ was filed by the Goa Foundation in the Supreme Court bringing to the notice of the Supreme Court this fact and the blatant violation of the Environment Impact Assessment Notification of 1994. The petition sought urgent directions for closure of all units operating without the requisite EIA clearance in order to prevent destruction of wildlife and environment. Notice was issued to the respondents in September 2004.

When the case came up for hearing on 21.2.2005, the Court passed an order directing the Government of India to issue an order directing immediate closure of all defaulting units which continue to operate in violation of environmental laws, with a further direction to all the State governments and Union Territories to comply with such order.¹⁰⁸ Accordingly, the Union government passed an order dated 2.3.2005 under Section 5 of the *Environment Protection Act* directing all the State governments and Union Territories to close down all units operating in violation of the environmental laws.

However, this was followed by a spate of applications being filed in the Supreme Court by the affected units, many of them

arguing that their applications for environmental clearance had been filed and were not being processed speedily by the Government. As a result, the Court was compelled to take up the petition for hearing on 11.3.2005, and passed an order staying the operation of the order dated 2.3.2005 passed by the Government of India. The Court, however, directed the MoEF to file a detailed status report on these units, with specific reference to the status of their environmental clearance.¹⁰⁹

A status report was duly filed by the MoEF in May 2005, and after examining this report the Court passed an order directing some of the units to continue functioning, while others were directed to be closed in accordance with the Government's order of 2.3.2005.¹¹⁰ The vicinity of the units to protected areas was a major consideration in this classification, and the overwhelming majority of the units thus closed were mining operations.

It appears that the issue came up before the Indian Board for Wildlife under the chairmanship of Prime Minister of India on 21st January, 2002 where a decision was taken to notify the areas within 10 kms. of the boundaries of national parks and sanctuaries and the wildlife corridors as "eco-sensitive areas" under the *Environment Protection Act*. Taking note of this decision, the Court called upon the MoEF as well as the various State governments and Union Territories to file their responses to this decision, so that directions can be passed in this regard. The Court also directed as follows:

"The MoEF is directed to file an affidavit, within three weeks, placing on record their stand in respect of the decision taken in the

111. Order dt. 30.1.2006 passed by the Supreme Court in Writ Petition (C) 460/2004.

112. IA Nos. 826 and connected IAs in WP 202 of 1995.

113. Order dated 17.4.2000 in IA Nos. 419 and 420, 2003 SCALE (PIL) 104

meeting of 21st January, 2002 and on the issue of grant of clearances for mining in areas in close proximity of the sanctuaries and the policy, if any, as to the distance of the area from the boundaries of the sanctuaries for the purpose of considering the application for grant of mining lease."¹¹¹

Meanwhile, the issue of declaration of eco-sensitive areas or buffer zones around national parks and sanctuaries is also pending before the Forest bench in the *Godavarman case*. On several occasions when the applications came up for hearing, the Court was pressed by the Amicus Curiae in the case to pass directions concerning the rampant mining taking place in the country in the close vicinity of protected areas. The numerous directions passed by the Supreme Court on the subject of closure of mines from within and around protected areas as well as forests is way beyond the scope of the present document. However, it is important to note that the Court has devised an 'interim' mechanism of allowing the MoEF to issue 'temporary working permits' to mining operations which have filed applications for renewal of their mining leases until such time as the applications are processed. The subject matter of grant of such mining leases within the radius of 10 kms of a protected area, however, remains undecided till the date of writing.

When the *Goa Foundation case* came up for hearing on 7.2.2008, a number of mining units were before the Court with applications seeking permission to continue mining in the proposed buffer zones. However, the Court was of the view that since this issue is already before the Forest bench in the *Godavarman case*, and parallel proceedings on the same subject matter cannot be permitted, the entire writ petition should be heard by the Forest bench.

While for the present, the proposed creation of "buffer zones" or "eco-sensitive zones" around protected areas impacts only commercial activity, and mining activity in particular, there is a need to closely monitor this issue, since once such buffer zones are created, the rights of tribal and forest dwelling communities in these zones may also come up for scrutiny by the Court.

Net Present Value

Another batch of applications pending in the *Godavarman case* which impacts indirectly on protected areas is that relating to net present value.¹¹² A detailed examination of this volatile and dynamic area of development is beyond the scope of this document, and there is also little gain in examining an area of law which is very much in a state of flux. Some key developments are however necessary to keep in mind.

The *Forest Conservation Act, 1980* (FCA) and the Rules framed under it, have long

114. This was numbered as IA No. 566.

115. *Saving India's Forests and Wildlife, Sanctuary*, Mumbai, November 2003. There is some confusion about the date of the report. The aforesaid publication states that the report is dated 13.8.2002, while the Court orders refer to the report as dated September 2002. However, there is no contradiction regarding the contents of the said report.

116. Order passed in I.A. 566, 2002 (9) SCALE 81

117. 2002 (9) SCALE 81 at page 88.

118. Some of these directions are contained in letters dated 17/18 Sept. 2003 and 19/22 Sept. 2003, F.No.5-1/98-FC (Pt II), among others, and include

- NPV is payable in all cases that have been granted in-principle approval after 30.10.2002;
- NPV must be realised before Stage II (final) approval is granted;
- NPV must be recovered in all cases where Stage I approval has been granted after 30.10.2002, even if Stage II approval has also been granted;
- State Governments should charge NPV within the range of Rs. 5.80 lakhs to Rs. 9.20 lakhs per hectare depending upon the quality of forest, density and the type of species in the area; The funds thus recovered should be transferred to CAMPA.

119. In exercise of the powers conferred by sub-section (3) of section 3 of the Environment Protection Act, 1986.

required that diversion of forest land for non-forest purpose must be accompanied by compensatory afforestation, usually in an area upto double of the diverted land. The user agency is required to pay the State government for the compensatory afforestation according to certain formulae. However, the actual implementation of these afforestation programmes was far from satisfactory. During the course of hearings in the *Godavarman case*,¹¹³ it became apparent that the utilisation of funds for the purpose of compensatory afforestation was dismal, with 50% or less of the amounts received for compensatory afforestation having actually been spent by State governments.

The Supreme Court suo moto took this fact on record and treated it as an independent IA,¹¹⁴ and notice was issued to the defaulting states which had recorded poor progress in utilisation of funds. The matter was sent for consideration to the Central Empowered Committee (CEC), which submitted its recommendations.¹¹⁵

The CEC recommended, among other things, that while granting approval under the FCA, in addition to the funds realised for compensatory afforestation, net present value of the forest land diverted for non-forestry purposes shall also be recovered from the user agencies, and that a 'Compensatory Afforestation Fund' be created in which all funds received from the user agencies towards compensatory afforestation, additional compensatory afforestation, penal compensatory afforestation, net present value of forest land, Catchment Area Treatment Plan funds, etc., shall be deposited.

The Supreme Court accepted this report in its entirety vide order dated 30.10.2002.¹¹⁶ The Union of India was directed to frame

rules for the purpose of constitution of a body to manage the compensatory afforestation fund within 8 weeks. It made the following direction regarding the concept of Net Present Value:

"The net present value is to be recovered at the rate of Rs. 5.80 lakhs per hectare to Rs. 9.20 lakhs per hectare of forest land depending upon the quantity and density of the land in question converted for non-forest use. This will be subject to upward revision by the Ministry of Environment and Forests in consultation with Central Empowered Committee as and when necessary."¹¹⁷

The MoEF has issued several directions thereafter regarding payment of NPV for diversion of forest land for non-forest purpose.¹¹⁸ The MoEF also passed a direction on 23rd April 2004¹¹⁹ constituting the Compensatory Afforestation Fund Management and Planning Authority (CAMPA).

However, the issues of compensatory afforestation, the administration of CAMPA, and especially the issue of net present value are far from settled. A large number of IAs filed by user agencies as well as State governments have been filed challenging the current position on these issues, claiming that in certain fact situations, payment of net present value for diversion of forest land is an onerous burden. It is argued that diversion of forest land, while not something to be encouraged, is a necessity in certain cases to enable the state to fulfill its welfare functions and for economic development. In such cases, net present value should not be levied. The MoEF as well as some of the State Governments have gone on record to state that no net present value should be payable while regularising land rights of tribals and forest dwellers, as well as for rehabilitation of

120. For instance, in the affidavits filed by the Union of India and the State of Tripura in IA no. 703.

121. SCC citation

122. Report of the Kanchan Chopra Committee to the Supreme Court of India in IA no. 826 in IA No. 566 in WP (C) 202 of 1995, at 2.2.4.3

persons displaced from developmental projects in other areas.¹²⁰ Some State governments also took issue with the centralisation of control of the funds collected, arguing that when the funds are collected with respect to diversion of forest land at the State level, there is no reason for it to be centrally controlled by CAMPA.

Recognising that there is a need to differentiate between commercial diversion of forest land, and non-commercial diversion of forest land, the Court vide order dated 26.9.2005¹²¹ directed that this issue be examined by a specially constituted committee. It was directed that the Committee be headed by Dr. Kanchan Chopra, Director and Professor at the Institute of Economic Growth, Delhi and have two other members also from the same institute.

The Committee submitted its report in April 2006, which was prepared after a detailed procedure of consultation with stakeholders, meetings with Ministry officials, and testing of economic and statistical methodologies. As far as protected areas are concerned, the Committee was of the view that there is no question of calculation of Net Present Value, since protected areas should not be diverted for any non-forest purpose at all. It observed:

"No permission for non-forest use can be given to certain kinds of areas such as: Protected Areas (Pas), Sacred Groves, Fragile Ecosystems (e.g. mangroves)"¹²²

It proposed a detailed economic methodology for calculation of the value of a forest, with formulae being devised for calculation of the value of the goods and services which flow from a forest area, such as timber, carbon storage value, fuel wood and fodder, non-

timber forest produce (including grass), ecotourism, and watershed services. The proposed methodology, to be applied on a case-by-case basis, also included the organisation of public hearings with local forest users to apprise them of the intention of diverting forest land, and also getting the rights, privileges, and concessions settled by the Collector prior to diversion, again on a case by case basis.

The report went on to state that since the goods and services which flow out of a forest are of a varied nature, and the users of these goods and services who are likely to be adversely affected by its diversion for non-forest purpose are also diverse, there is no justification for consolidation of the compensation received for such diversion (the net present value) in a centralized fund such as CAMPA. Instead, it stated, the stakeholders who stand to lose the most, that is the local communities, must receive the larger share of the compensation, through the Panchayat, with the State government receiving a second share, and the Central Government a much smaller share. It therefore proposed the distribution of the Net Present Value collected at the Panchayat, State and Central Level.

The report also makes detailed recommendation regarding which activities and projects should be exempted from payment of NPV and to what extent. Some extracts from this recommendation are placed in the table below.

As expected, this report did not meet with the full approval of the Court or the Amicus Curiae, while a number of applications were filed by various commercial ventures claiming a right to exemption under one or the other portion of the Report. On 17.10.2006, the

123. Observation of CEC on report of Expert Committee on NPV (NPV Committee), filed on 17.10.2006 by Mr. M.K. Jiwarkja, Member Secretary, Central Empowered Committee.

124. A further observation in the CEC report is: "In respect of the pre-1980 regularization of the encroachments and the conversion of the forest villages, no NPV may be charged provided these are strictly in accordance with the MoEF's guidelines dated 18.9.1990."

125. IA No. 2143 in WP 202 of 1995, filed by the Amicus Curiae in the *Godavarman case*.

Table: Exemptions from NPV - extract from the Kanchan Chopra Report

<i>List of Activities/ Projects</i>	<i>Exemption Levels for NPV</i>	<i>Remarks</i>
Relocation of villages from Sanctuaries/ National Park	Full exemption	Provided R&R is provided appropriately for
Housing for rehabilitation of tribals	Full exemption	
Regularisation of eligible encroachments (Pre-1980)	Full exemption	
Regularisation of encroachment other than pre- 1980	No exemption	
Shifting cultivation	Full exemption	This is not a non-forestry use

should be calculated at 10 times and 5 times of base value of NPV subject to minimum of Rs. 1 crore. This will act as a monetary disincentive, while at the same time not make essential diversions impossible.

The CEC was also of the view that :

Central Empowered Committee filed a detailed note opposing many of the recommendations made by the Committee.¹²³ While agreeing with the principles proposed by the Kanchan Chopra Committee for calculation of NPV, the CEC disagreed that NPV should be calculated on a case by case basis. Instead, the CEC proposed an alternative methodology for calculation of NPV for each State based on the classification of forest (such as evergreen forest, semi evergreen, moist deciduous, dry deciduous, Himalayan Pine, Himalayan broad leaf, mangrove, thorn scrub, shoal grassland) and density of tree cover.

The CEC also disagreed with the recommendation of the Kanchan Chopra Committee that there should be no diversion of protected areas. It stated that in exceptional circumstances, diversion of National Parks, Wildlife Sanctuaries, Biosphere Reserves and other eco-sensitive areas is being permitted by the NBWL and the Supreme Court through a well-defined procedure. A blanket ban is not possible. In addition, in such areas, economic substitution does not apply, and it is the principle of economic deterrence which must be applied as a governing principle. Therefore, in National Parks and Wildlife Sanctuaries, NPV

"relocation of villages from National Parks/ Sanctuaries to alternative forest land may be exempted from the payment of the NPV, because such relocations are for the better conservation and the consolidation of the protected areas. This Hon'ble Court by order dated 28.4.2006 has permitted the MoEF to presently approve such cases without payment of the NPV."¹²⁴

The recommendation regarding distribution of NPV at local, state and central level funds were also not acceptable to the CEC, for the reason that this issue has already been settled by the Supreme Court vide order dated 26.9.2006 in IA no. 826 in IA no. 566, where the constitutional validity of the CAMPA Rules has also been upheld.

These applications and reports have come up for hearing on several occasions since then, but there has been no effective hearing on the issues which arise. Meanwhile, the Amicus Curiae in the *Godavarman case* informed the Court that the funds collected by CAMPA, which are currently unable to be used as a result of this lack of clarity, is currently at Rs. 5400 crores and will shortly cross Rs. 10,000 crores.¹²⁵

CONCLUSION

When the *WWF case* was filed in 1995, like many other PILs, it represented the politics and approach to conservation of a small, albeit powerful, section of Indian society. The petitioner, **World Wide Fund for Nature-India**, probably knew this better than anyone, knowing also that their approach would not survive a robust challenge. Perhaps it is natural that the petitioners did not deem fit to array as respondents those who were likely to pose such a challenge, or those whose lives and livelihoods were likely to be affected by their approach. Making only the Union Government and the various State and Union Territory governments as respondents, has to a large extent ensured that the serious human rights violations being committed in the name of wildlife conservation in this country never came to the notice of the Court. What it has also done is plunged the conservation approach of the nation to a path of regression, when centralization of control, exclusion of local populations, and rigid bureaucratization have been all but abandoned as sustainable at the national and international level.

The natural tendency of the law and the legal system to examine the microscopic truth, and the dangers this tendency poses when the Court deals with human rights issues which have social, political, cultural and economic dimensions, has been well documented. Therefore, it would be expected that when the Court finds itself confronted with a PIL raising such an issue, one that is not only a governance issue but also where the Court has little expertise or precedent to rely upon, an effort would be made to involve the different interest groups and approaches involved, even if the petitioner has not seen fit

to array such interest groups as parties. When the principle of natural justice must necessarily be applied to the smallest legal dispute to ensure that all persons affected by the issue at hand are made parties and given an opportunity to present their version of the truth, how much more important is this principle in a matter such as this, which involves the lives of millions of tribals and forest dwelling citizens as well as the survival of wildlife and the environment against the onslaught of modern development.

While interest groups such as industries and corporations, who were also excluded from the array of parties to this case, have been able to surmount the difficulty posed by using the device of interim applications to the fullest, unfortunately the efforts by tribal rights organisations to use this method have failed. An application filed by 14 organisations challenging the approach of the Court to the issue of conservation itself, as well as to the settlement and determination of rights of tribals and forest dwellers in protected areas, was dismissed at the very first hearing.¹²⁶ It is unfortunate indeed that the Court not only made no effort to involve the different interest groups affected by the issue before it, but also defeated the one application that was made by organisations which sought to enrich the proceedings with a different world view.

The principle of natural justice has been compromised in these proceedings for another reason. Ordinarily, before passing an order which affects the rights of the parties before it, in a litigation where all interest groups are properly represented, the Court would have to hear all parties, examine the statutory law

126. *Kalpavriksh & Ors. Vs. Union of India & Ors*, IA No. 11 of 1998 in WP (C) 337 of 1995. This application was dismissed by a non-speaking order on 20.7.1999.

and precedents on the subject, and support its decision with a reasoned judgment. In the *WWF case* and the *Godavarman case*, however, the Court has passed 'interim' orders of far reaching consequences which have not been through a robust process of hearing and testing, nor are supported by reasoned judgments. Some of these orders have been in the nature of injunctions, others have had the impact of supplanting statutory law, while yet others have replaced the power of the executive with the Supreme Court itself. Many have violated constitutional rights of hundreds of thousands of forest dwellers and tribals who are directly affected by these orders but have never been heard.

The failure to hear their side of the story before passing orders of such nature is in itself a violation of the fundamental right to due process of law enshrined in Article 21 of the Constitution.¹²⁷ This failure has been further compounded by the fact that since many of these orders are 'interim' in nature, they remain unreported in the usual legal journals or even in the press, and do not come to light until line departments begin to implement them, and affected populations frantically try to track down the 'Supreme Court order' that has wrecked havoc in their lives. Taking full advantage of just such an information chasm, the MoEF had in 2002 issued an order directing eviction of all encroachments from forest lands in accordance with the order of the Supreme Court dated 23.11.2001¹²⁸ in the *Godavarman case*. It was only after the most brutal eviction drives began, in some cases

using elephants to tear down whole villages, that the said order dated 23.11.2001 was traced, and it was found that the Supreme Court had in fact not ordered evictions, but directed an "interim" stay on regularisation of encroachments.¹²⁹ It goes without saying that this order remains in operation till today, despite the passage of 6 years.

These and other such orders have the effect of taking over the power of the executive, through the superimposition of the Supreme Court as final arbiter over and above a mechanism of checks and balances contained in the statutes concerned. These so called interim orders have become carved in stone over the years. Attempts by the state as well as corporations to 'modify' these orders have been in the nature of seeking case-specific 'exemptions' from their operation, rather than challenge the constitutional and statutory foundation on which they are, at best, precariously based. In the result, powerful interest groups such as industries and corporations have hardly been deterred from the fast-track of development, and the industrial juggernaut has swallowed large areas of forests despite the Supreme Court's orders.¹³⁰ Tribals and forest dwellers, on the other hand, have not been able to raise the fundamental constitutional issues involved, nor bring to the notice of the Court that the exclusionary conservation approach adopted by it has resulted in serious violations of their rights, takeover of their homelands by these very interests, as well as threatened the very forests and protected areas it seeks to

127. Article 21 of the Constitution of India states: "No person shall be deprived of his life or personal liberty except according to procedure established by law." While the right to processual justice is apparent on the face of it, the Supreme Court has expanded the definition through judicial precedent to include numerous rights which are intrinsically linked to life itself, including the right to livelihood and the right to dignity.

128. In IA no. 703 in WP 202 of 1995, unreported.

129. This event and its fallout has been discussed in more detail in *Endangered Symbiosis: Evictions and India's Forest Community*, Campaign for Survival and Dignity (2004).

Order dt. 23.11.2001 in IA No. 703 in WP 202 of 1995, TN Godavarman as. UOI, Supreme Court of India. Unreported.

130. An analysis conducted by the Campaign for Survival and Dignity in 2007 reveals that - Forest diversion for other uses between 1980-1996 (the time of the Supreme Court's intervention) was an average of 23,985 hectares per year. Between 1996-2006 this figure has increased almost three times to 72,646 hectares per year. Clearly, the objective of protection of forests from diversion for commercial uses, far from being achieved, has actually been defeated after 1995, the year the *Godavarman case* and the *WWF case* were launched.

protect. State governments have continued to use the Supreme Court's interim orders as a shield while alienating tribals and forest dwellers from their homelands as well as their livelihood and way of life.

Examining the impact of this tendency in the *Godavarman case*, *Rosencranz et al* observe:

"The Court impinged upon the power of the legislature by banning the transport and felling of timber and by creating the CEC. It assumed the role of the executive in administering its own interpretation of the law in addition to its specific orders. Rather than directing, guiding, and motivating the existing national and state bureaucracies to realign their infrastructures and goals toward more stringent and effective forest management, the Supreme Court bypassed their authority and attempted to selectively micromanage the entire country's forest. The Court, rather than the legislature, became responsible for creating environmental regulations, and the Court, rather than the executive branch of the government assumed responsibility for enforcing its own interpretations and regulations...By assuming the powers of other government actors through judicial activism, the Supreme Court has restricted the growth of a responsible and independent bureaucracy."¹³¹

This same tendency is reflected in the *WWF Case* as well.

The result has been a creation of a rarefied world inside the courtroom which is cocooned from the reality of the impact of these orders and the proceedings themselves on the world outside. In a PIL where the rules of *locus standi* are relaxed in the interest of representing the rights of the marginalized who have no voice, there is a high degree of

responsibility on the petitioner who lends its voice to them. In the present case, the **World Wide Fund for Nature-India** is under an even greater obligation since it professes to represent not only Indian citizens today, but also the unborn generations which will be citizens of tomorrow. That *WWF-India* has failed miserably in fulfilling this responsibility is apparent in the fact that the voice of the tribal and forest dwelling people, among the most marginalized sections in Indian society, has been drowned out completely in a litigation that has continued for 12 years.

The enactment of the *Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006*, and the Rules thereunder promises to change this situation. This Act seeks "to recognize and vest the forest rights and occupation in forest land in forest dwelling Scheduled Tribes and other traditional forest dwellers who have been residing in such forests for generations but whose rights could not be recorded; to provide for a framework of recording the forest rights so vested and the nature of evidence required for such recognition and vesting in respect of forest land."

Taking a holistic view of forest protection, conservation, and sustainability, which includes rather than excludes the tribal and forest dwelling communities which have generations of expertise in protecting and nurturing these forests as their homelands, the Act has set forth for the first time in Indian history a people centred democratic framework of forest law. It represents the first clear voice of sanity in a legal system bogged down with colonial remnants of excessive bureaucratization, rigid controls, exclusion, lack of accountability and sheer incompetence. It was these very ills that the Supreme Court has tried to address in the

131. *The Godavarman Case: The Indian Supreme Court's Breach of Constitutional Boundaries in Managing India's Forests*, by Armin Rosencranz, Edward Boenig, and Brinda Dutta, *Environmental Law Review*, January 2007.

Godavarman case and the *WWF case*, but the excessively centralizing route adopted by the Court invested more and more control in itself and its own Committees, reducing the executive to a state of impotency. The 2006 Act, on the other hand, decentralizes power and control by giving the Gram Sabhas, or the village councils, pride of place.

While this is not the place to go into a detailed examination of the 2006 Act, it is important to state that this statute will have far reaching consequences not only with regard to the pending forest cases in the Supreme Court, but far more importantly in dismantling the control that the Forest Departments have exercised over lands once classified as forests, and towards local communities taking over their rightful place in the ownership, control, and management of forests for sustainable livelihoods as well as conservation of wildlife and biodiversity.

Towards this goal, the term 'forest rights' has been widely defined in the Act to include not only rights to cultivate lands which were not properly settled under the various forest statutes, including the *Wild Life Protection Act, 1972*, but also community rights to forest produce and various usufructs and easements. Even more importantly, the term forest rights includes the "right to protect, regenerate, or conserve or manage any community forest resource, which they have been traditionally protecting and conserving for sustainable use."¹³² This right has been further strengthened with the power conferred by section 5 of the Act as follows:

"5. The holders of any forest right, Gram Sabha and village level institutions in areas where there are holders of any forest right under this Act are empowered to-

- (a) protect the wild life, forest and biodiversity;

- (b) ensure that adjoining catchments area, water sources and other ecological sensitive areas adequately protected;
- (c) ensure that the habitat of forest dwelling Scheduled Tribes and other traditional forest dwellers is preserved from any form of destructive practices affecting their cultural and natural heritage;
- (d) ensure that the decisions taken in the Gram Sabha to regulate access to community forest resources and stop any activity which adversely affects the wild animals, forest and the biodiversity are complied with".

The determination of forest rights under the 2006 Act begins with the formation of a 15 member Forest Rights Committee from among the members of the Gram Sabha, whose functioning is made directly accountable to the Gram Sabha. Sub-Divisional Level and District Level Committees provide the necessary checks and balances to ensure that the decisions taken by the Forest Rights Committees and Gram Sabhas are just, fair and rationalized with the forest rights of surrounding villages.

These forest rights and the mechanism for their determination apply equally to protected areas under the *Wild Life Protection Act, 1972*. The 2006 Act also recognises that there might be areas which require to be demarcated for the exclusive use of wildlife protection, or 'critical wildlife habitats'. Section 4(2) of the 2006 Act provides for a democratic and scientifically robust process for the creation of such areas, requiring a case-by-case examination by scientific experts that these areas need to be kept inviolate and there is no possibility of co-existence between humans and wildlife, for the consent of the Gram

¹³². Section 3(1)(i) of the 2006 Act.

Sabha, and for the provision of a resettlement package which ensures a secure livelihood to those who are to be relocated as a result. Thus, Section 4(2) requires that for the creation of such a critical wildlife habitat the following conditions have to be satisfied:

- a. completion of process of recognition of rights, and
- b. establishment that the presence of right holders in the area is a threat to the existence of a particular special of wild animals; and
- c. options for co-existence are not available; and
- d. resettlement package ensuring a secure livelihood has been devised; and
- e. free informed consent of the Gram Sabha to the rehabilitation package has been obtained in writing; and
- f. no resettlement to take place until the facilities and land allocation at the resettlement location are complete.

The 2006 Act also states that critical wildlife habitats from which right holders have been relocated for purposes of wildlife conservation cannot be subsequently diverted by the state for any other purpose.

The State governments have initiated the process of setting up of Forest Rights Committees at the Gram Sabha level, which is the first step in implementation of the 2006 Act. This is indeed a historic moment for the forest dwelling people and tribals of this country to take back their traditional way of life and their homelands which have so cruelly been wrested from them by over a century of operation of colonial forest laws. No doubt the implementation of the 2006 Act will be uneven, and areas where forest dwelling communities and tribals are organised and politically conscious will see a fuller realization of its promise. What remains to be seen is whether the Supreme Court, in the *WWF case* as well as the other pending cases relating to forest rights, will finally unstop its ears to the voice of the very people it has so consistently ignored for 12 long years.

Appendix A: Annexure to WP 337 of 1995

LIST OF PARKS AND SANCTUARIES **IN INDIA**

S.No.	STATE	NAME OF NATIONAL PARK/SANCTUARY	DATE OF ESTABLISHMENT	AREA(SQ.KM) 1994
	ANDAMAN & NICOBAR ISLANDS			
1.	NATIONAL PARK	Marine National Park	24.05.1983	281.500
2.		Middle Button National Park	13.11.1979	0.640
3.		Mount Harriet National Park	13.11.1979	0.460
4.		North Button National Park	13.11.1979	0.440
5.		Saddle Peak National Park	13.11.1979	32.540
6.		South Button National Park	19.02.1977	0.030
7.	WILDLIFE SANTUARY	Arial Wildlife Sanctuary		0.550
8.		Bamboo Wildlife Sanctuary		0.050
9.		Barren Wildlife Sanctuary	19.02.1977	8.110
10.		Battimalva Wildlife Sanctuary	January,1985	2.230
11.		Belle Wildlife Sanctuary		0.080
12.		Benette Wildlife Sanctuary		3.460
13.		Bingham Wildlife Sanctuary		0.080
14.		Bliter Wildlife Sanctuary		0.260
15.		Bluff Wildlife Sanctuary		1.140

S.No.	STATE	NAME OF NATIONAL PARK/SANCTUARY	DATE OF ESTABLISHMENT	AREA(SQ.KM) 1994
16.		Bondovile Wildlife Sanctuary		2.550
17.		Brush Wildlife Sanctuary		0.230
18.		Buchanan Wildlife Sanctuary		0.330
19.		Channel Wildlife Sanctuary		0.130
20.		Cinque Wildlife Sanctuary		0.540
21.		Clyde Wildlife Sanctuary		0.540
22.		Cone Wildlife Sanctuary		0.650
23.		Curlew Wildlife Sanctuary		0.030
24.		Curlew (B.P.) Wildlife Sanctuary		0.160
25.		Defence Wildlife Sanctuary		10.490
26.		Dot Wildlife Sanctuary		0.130
27.		Dottrel Wildlife Sanctuary		0.130
28.		Dunean Wildlife Sanctuary		0.430
29.		East Wildlife Sanctuary		6.110
30.		East of Inglis Wildlife Sanctuary		3.550
31.		Egg Wildlife Sanctuary		0.050
32.		Elat Wildlife Sanctuary		9.360
33.		Entrance Wildlife Sanctuary		0.960
34.		Gander Wildlife Sanctuary		0.050
35.		Goose Wildlife Sanctuary		0.010
36.		Gurjan Wildlife Sanctuay		0.160
37.		Hump Wildlife Sanctuary		0.470
38.		Interview Wildlife Sanctuary	January,1985	133.870
39.		James Wildlife Sanctuary		2.100
40.		Jungle Wildlife Sanctuary		0.520

S.No.	STATE	NAME OF NATIONAL PARK/SANCTUARY	DATE OF ESTABLISHMENT	AREA(SQ.KM) 1994
41.		Kwangtung Wildlife Sanctuary		0.570
42.		Kyd Wildlife Sanctuary		8.000
43.		Landfall Wildlife Sanctuary		29.480
44.		Latouche Wildlife Sanctuary		0.960
45.		Lohabamack Wildlife Sanctuary		106.000
46.		Mangrove Wildlife Sanctuary		0.390
47.		Mask Wildlife Sanctuary		0.780
48.		Mayo Wildlife Sanctuary		0.100
49.		Megapode Wildlife Sanctuary	January, 1985	0.120
50.		Montgomery Wildlife Sanctuary		0.210
51.		Naroondam Wildlife Sanctuary	19.02.1977	6.810
52.		North Wildlife Sanctuary		0.490
53.		North Brother Wildlife Sanctuary		0.750
54.		North Reef Wildlife Sanctuary	19.02.1977	3.480
55.		Oliver Wildlife Sanctuary		0.160
56.		Orchid Wildlife Sanctuary		0.100
57.		Ox Wildlife Sanctuary		0.130
58.		Oyster Wildlife Sanctuary-I		0.080
59.		Oyster Wildlife Sanctuary-II		0.130
60.		Paget Wildlife Sanctuary		7.360
61.		Parkinson Wildlife Sanctuary		0.340
62.		Passage Wildlife Sanctuary		0.620
63.		Patric Wildlife Sanctuary		0.130
64.		Peacock Wildlife Sanctuary		0.620
65.		Pitman Wildlife Sanctuary		1.370
66.		Point Wildlife Sanctuary		3.070

S.No.	STATE	NAME OF NATIONAL PARK/SANCTUARY	DATE OF ESTABLISHMENT	AREA(SQ.KM) 1994
67.		Potanma Wildlife Sanctuary		0.160
68.		Ranga Wildlife Sanctuary		4.260
69.		Reef Wildlife Sanctuary		1.740
70.		Roper Wildlife Sanctuary		1.460
71.		Rose Wildlife Sanctuary		0.010
72.		Rowe Wildlife Sanctuary		0.010
73.		Sandy Wildlife Sanctuary		1.580
74.		Sea Serpent Wildlife Sanctuary		0.780
75.		Shark Wildlife Sanctuary		0.600
76.		Sir Huge Rose Wildlife Sanctuary		1.060
77.		Shearme Wildlife Sanctuary		7.850
78.		Sister Wildlife Sanctuary		0.360
79.		Snake Wildlife Sanctuary-I		0.030
80.		Snake Wildlife Sanctuary-II		0.730
81.		South Brother Wildlife Sanctuary		1.240
82.		South Reef Wildlife Sanctuary		1.170
83.		South Sentinal Wildlife Sanctuary	19.02.1977	1.610
84.		Spike Wildlife Sanctuary-I		11.700
85.		Spike Wildlife Sanctuary-II		0.420
86.		Stoat Wildlife Sanctuary		0.440
87.		Surat Wildlife Sanctuary		0.310
88.		Swamp Wildlife Sanctuary		4.090
89.		Table (Delgrano) Wildlife Sanctuary		2.290
90.		Table (Excelsior) Wildlife Sanctuary		1.690
91.		Talabaicha Wildlife Sanctuary		3.210
92.		Temple Wildlife Sanctuary		1.040
93.		Tillonchang Wildlife Sanctuary	January, 1985	16.830

S.No.	STATE	NAME OF NATIONAL PARK/SANCTUARY	DATE OF ESTABLISHMENT	AREA(SQ.KM) 1994
94.		Tree Wildlife Sanctuary		0.030
95.		Trilby Wildlife Sanctuary		0.960
96.		Turf Wildlife Sanctuary		0.290
97.		Turtle Wildlife Sanctuary		0.390
98.		West Wildlife Sanctuary		6.400
99.		Wharf Wildlife Sanctuary		0.110
100.		White Cliff Wildlife Sanctuary		0.470
	ANDHRA PRADESH			
101.	NATIONAL PARK	Shri Venkateshwara National Park		352.620
102.	WILDLIFE SANCTUARY	Coringa Wildlife Sanctuary	05.07.1978	235.700
103.		Eturnagaram Wildlife Sanctuary	30.01.1953	803.350
104.		Kaundinya Wildlife Sanctuary		357.600
105.		Kawal Wildlife Sanctuary	18.11.1965	893.000
106.		Kinnersani Wildlife Sanctuary	24.01.1977	655.410
107.		Kolleru Wildlife Sanctuary	11.09.1963	673.000
108.		Krishna Wildlife Sanctuary		194.810
109.		Hanjamadugu (Sivaram) Wildlife Sanctuary		36.290
110.		Manjlra Wildlife Sanctuary	20.05.1978	20.000
111.		Nagar Junasagar Wildlife Sanctuary and Tiger Reserve	05.07.1978	3568.000
112.		Nelapattu Wildlife Sanctuary	21.10.1976	4.404
113.		Pakhal Wildlife Sanctuary		
114.		Papikonda Wildlife Sanctuary	05.07.1978	591.000
115.		Pocharam Wildlife Sanctuary	20.03.1952	130.130
116.		Pranahita Wildlife Sanctuary	18.03.1980	136.020
117.		Pulicat Wildlife Sanctuary	20.09.1976	500.000
118.		Rollapadu Wildlife Sanctuary		614.000
119.		Sri.Lankamalleswara Wildlife Sanctuary		464.420
120.		Sri Venkateshwara Wildlife Sanctuary		153.940

S.No.	STATE	NAME OF NATIONAL PARK/SANCTUARY	DATE OF ESTABLISHMENT	AREA(SQ.KM) 1994
	ARUNACHAL PRADESH			
121.	NATIONAL PARK	Mouling National Park		483.00
122.		Namdapha National Park and Tiger Reserve	02.10.1972	1985.230
123.	WILDLIFE SANCTUARY	Dibang Wildlife Sanctuary		4149.000
124.		Eagle Nest Wildlife Sanctuary		217.000
125.		Itanagar Wildlife Sanctuary	20.02.1978	140.300
126.		Karmlang Wildlife Sanctuary		783.000
127.		Kane Wildlife Sanctuary		55.000
128.		Hali Wildlife Sanctuary	28.10.1978	190.000
129.		Mehao Wildlife Sanctuary	15.12.1980	281.500
130.		Pakhur Wildlife Sanctuary	28.03.1977	861.950
131.		Sessa Orchid Wildlife Sanctuary		100.000
	ASSAM			
132.	NATIONAL PARK	Kaziranga National Park	11.02.1974	430.000
133.		Manas National Park and Tiger Reserve		500.000
134.	WILDLIFE SANCTUARY	Barnadi Wildlife Sanctuary	22.08.1980	26.000
135.		Dibru Saikhowa Wildlife Sanctuary		640.000
136.		Garampani Wildlife Sanctuary	10.07.1952	6.000
137.		Dipor Beel Wildlife Sanctuary		4.140
138.		Laokhowa Wildlife Sanctuary	06.09.1979	70.000
139.		Manas Wildlife Sanctuary	01.10.1928	391.000
140.		Nameri Wildlife Sanctuary		130.000
141.		Orang Wildlife Sanctuary	31.05.1915	75.600
142.		Pobitora Wildlife Sanctuary		38.840

S.No.	STATE	NAME OF NATIONAL PARK/SANCTUARY	DATE OF ESTABLISHMENT	AREA(SQ.KM) 1994
	BIHAR			
143.	NATIONAL PARK	Betla National Park and Tiger Reserve		231.670
144.		Valmiki National Park and Tiger Reserve		335.650
145.	WILDLIFE SANCTUARY	Betla Wildlife Sanctuary	10.09.1986	747.600
146.		Bhimbandh Wildlife Sanctuary	27.05.1976	681.990
147.		Dalma Wildlife Sanctuary	13.07.1976	193.220
148.		Gautam Buddha Wildlife Sanctuary	14.09.1976	259.500
149.		Hazaribagh Wildlife Sanctuary	24.05.1976	186.250
150.		Kabar Tal Wildlife Sanctuary		63.110
151.		Kaimpur Wildlife Sanctuary	01.12.1978	1342.220
152.		Koderma Wildlife Sanctuary		177.950
153.		Lawalong Wildlife Sanctuary	07.08.1978	207.950
154.		Mahuadand Wildlife Sanctuary	23.06.1976	63.250
155.		Nagi Dam Wildlife Sanctuary		1.910
157.		Nakti Dam Wildlife Sanctuary		3.320
158.		Parasnath Wildlife Sanctuary		49.330
159.		Rajgir Wildlife Sanctuary	25.05.1978	35.840
160.		Topchanchi Wildlife Sanctuary	03.06.1978	8.750
161.		Udaipur Wildlife Sanctuary	24.04.1978	8.740
162.		Valmikinagar Wildlife Sanctuary and Tiger Reserve	04.05.1978	544.540
163.		Vikramshila Gangetic Dolphin Wildlife Sanctuary		50.000
	CHANDIGARH			
164.	WILDLIFE SANCTUARY	Sukhna Lake Wildlife Sanctuary	27.01.1977	25.420
	DAMAN AND DIU			
165.	WILDLIFE SANCTUARY	Fudam Wildlife Sanctuary		2.180
	DELHI			
166.	WILDLIFE SANCTUARY	Indra Priyadarshini Wildlife Sanctuary		13.200

S.No.	STATE	NAME OF NATIONAL PARK/SANCTUARY	DATE OF ESTABLISHMENT	AREA(SQ.KM) 1994
	GOA			
167.	NATIONAL PARK	Bhagwan Mahavir National Park	13.04.1978	107.000
168.	WILDLIFE SANCTUARY	Bhagwan Mahavir Wildlife Sanctuary	28.12.1967	240.000
169.		Bondla Wildlife Sanctuary	22.03.1969	8.000
170.		Choras Wildlife Sanctuary		1.780
171.		Cotigao Wildlife Sanctuary	18.01.1968	85.650
	GUJRAT			
172.	NATIONAL PARK	Gir National Park	21.12.1974	258.710
173.		Marine National Park	20.07.1982	162.890
174.		Vanasda National Park	08.08.1976	23.990
175.		Velavadar National Park	08.04.1969	34.080
176.	WILDLIFE SANCTUARY	Balram Ambaji Wildlife Sanctuary		542.082
177.		Barda Wildlife Sanctuary	12.02.1979	192.310
178.		Dhumkhal(Shoolpaneshwar) Wildlife Sanctuary		607.700
179.		Gaga Wildlife Sanctuary		3.330
180.		Gir Wildlife Sanctuary	21.12.1974	1153.420
181.		Hingolagarh Wildlife Sanctuary	20.02.1982	6.450
182.		Jambughoda Wildlife Sanctuary		130.380
183.		Jessora Wildlife Sanctuary	06.05.1978	180.660
184.		Kachchh Desert Wildlife Sanctuary		7506.220
185.		Khijadiya Wildlife Sanctuary	27.05.1981	6.050
186.		Kutch Bustard Wildlife Sanctuary		2.030
187.		Marine Wildlife Sanctuary	12.08.198	295.030
188.		Nalsarovar Wildlife Sanctuary	08.04.1969	120.820
189.		Narayan Sarovar Wildlife Sanctuary	14.04.1981	765.790
190.		Paniya Wildlife Sanctuary		39.630

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191.		Porbandar Wildlife Sanctuary		0.090
192.		Purna Wildlife Sanctuary		160.840
193.		Rampura Wildlife Sanctuary		15.010
194.		Ratanmahal Wildlife Sanctuary	19.03.1982	55.650
195.		Thal Wildlife Sanctuary		6.990
196.		Wild Ass Wildlife Sanctuary	20.09.1982	4953.700
	HARYANA			
197.	NATIONAL PARK	Sultanpur National Park		1.430
198.	WILDLIFE SANCTUARY	Bhindwas Wildlife Sanctuary		4.060
199.		Bir Baraban Wildlife Sanctuary		4.140
200.		Bir Shikargarh Wildlife Sanctuary		7.580
201.		Chautala Wildlife Sanctuary		113.960
202.		Chilchhila Wildlife Sanctuary		0.280
203.		Kalesar Wildlife Sanctuary		46.280
204.		Khagarwas Wildlife Sanctuary		0.810
205.		Nahar Wildlife Sanctuary		2.090
206.		Saraswati Wildlife Sanctuary		49.980
	HIMACHAL PRADESH			
207.	NATIONAL PARK	Great Himalayan National Park	01.03.1984	620.000
208.		Pin Valley National Park	09.01.1987	675.000
209.	WILDLIFE SANCTUARY	Bandli wildlife Sanctuary	27.03.1974	41.320
210.		Chail Wildlife Sanctuary	21.03.1976	108.540
211.		Churdhar Wildlife Sanctuary	15.11.1985	56.150
212.		Daranghati Wildlife Sanctuary-I & II	27.03.1974	167.400
213.		Gobindsagar Wildlife Sanctuary	27.03.1974	100.340
214.		Gangul Siya-Behl Wildlife Sanctuary	27.03.1974	108.850
215.		Kalatop and Khajjia Wildlife Sanctuary	14.12.1982	20.260
216.		Kanawar Wildlife Sanctuary	26.02.1954	60.700

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217.		Khokhan Wildlife Sanctuary	26.02.1954	14.050
218.		Kais Wildlife Sanctuary	26.02.1954	14.190
219.		Kibber Wildlife Sanctuary		
220.		Kugti Wildlife Sanctuary	27.03.1974	378.860
221.		Lippa Asrang Wildlife Sanctuary	27.03.1974	30.890
222.		Majathal Hasarang Wildlife Sanctuary	27.03.1974	39.380
223.		Manali Wildlife Sanctuary	26.02.1954	31.800
224.		Nainadevi Wildlife Sanctuary	27.03.1974	122.680
225.		Nargu Wildlife Sanctuary	27.03.1974	278.370
226.		Pong Dam Wildlife Sanctuary	01.06.1983	307.290
227.		Rakchham Chitkul Wildlife Sanctuary	27.03.1974	650.000
228.		Renuka Wildlife Sanctuary	25.03.1987	4.040
229.		Rupi Bhaba Wildlife Sanctuary	28.03.1982 30.06.1982	269.140
230.		Sechu Tuan Nala Wildlife Sanctuary	27.03.1974	102.950
231.		Shikari Devi Wildlife Sanctuary	27.03.1974	72.000
232.		Shilli Wildlife Sanctuary	27.03.1974	2.130
233.		Shimla Water Catchment Wildlife Sanctuary	14.12.1982	10.250
234.		Simbalbara Wildlife Sanctuary	27.03.1974	19.030
235.		Talra Wildlife Sanctuary	27.03.1974	40.490
236.		Tirthan Wildlife Sanctuary	17.06.1976	61.120
237.		Tundah Wildlife Sanctuary	17.09.1975	64.220
	JAMMU & KASHMIR			
238.	NATIONAL PARK	City Forest National Park		9.070
239.		Dachigam National Park	04.02.1981	141.000
240.		Hemis High Altitude National Park	04.02.1981	3350.000

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241.		Kistwar National Park	04.02.1981	310.000
242.	WILDLIFE SANCTUARY	Baltal Wildlife Sanctuary		203.000
243.		Changthang Wildlife Sanctuary		4000.000
244.		Gulmarg Wildlife Sanctuary		186.000
245.		Hirapora Wildlife Sanctuary		110.000
246.		Hokersar Wildlife Sanctuary		10.000
247.		Jasrota Wildlife Sanctuary		4.000
248.		Karakoram Wildlife Sanctuary		5000.000
249.		Lachiponi Wildlife Sanctuary		80.000
250.		Limber Wildlife Sanctuary		26.000
251.		Nandani Wildlife Sanctuary	04.02.1981	33.340
252.		Overa Wildlife Sanctuary	04.02.1981	32.000
253.		Overa-Aru Wildlife Sanctuary	04.02.1981	425.000
254.		Ramnagar Rakha Wildlife Sanctuary	04.02.1981	12.200
255.		Surinsar Mansar Wildlife Sanctuary	04.02.1981	39.130
256.		Tirkuta Wildlife Sanctuary	04.02.1981	3.000
	KARNATAKA			
257.	NATIONAL PARK	Anshi National Park	02.09.1987	250.000
258.		Bandipur National Park and Tiger Reserve	05.06.1974	874.200
259.		Bannerghatta National Park	06.09.1974	104.270
260.		Kudremukh National Park	02.09.1987	600.320
261.		Nagarhole National Park/Rajiv Gandhi National Park	16.03.1983	643.390
262.	WILDLIFE SANCTUARY	Adichunchunagiri Wildlife Sanctuary	21.10.1981	0.840
263.		Arabithitto Wildlife Sanctuary	03.04.1985	13.500
264.		Bhasrs Wildlife Sanctuary	25.09.1974	492.460
265.		Billigiri Rangaswamy Wildlife Sanctuary	27.06.1974	539.520
266.		Brahmagiri Wildlife Sanctuary	05.06.1974	181.290
267.		Cauvri Wildlife Sanctuary	14.01.1987	510.510
268.		Dandeli Wildlife Sanctuary	(10.05.1956) 08.01.1975	834.160
269.		Ghataprabha Wildlife Sanctuary	17.06.1974	29.780

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270.		Gudavi Wildlife Sanctuary	10.07.1989	0.730
271.		Melkote Temple Wildlife Sanctuary	17.06.1974	49.820
272.		Mookambika Wildlife Sanctuary	17.06.1974	247.000
273.		Nugu Wildlife Sanctuary	17.06.1974	30.320
274.		Pushpagiri Wildlife Sanctuary	02.09.1987	102.920
275.		Ranebennur Wildlife Sanctuary	17.06.1974	119.000
276.		Ranganathittu Wildlife Sanctuary	01.07.1940	0.670
277.		Sharavathi Valley Sanctuary	20.04.1972	431.230
278.		Shettihally Wildlife Sanctuary	23.11.1974	395.600
279.		Someshwara Wildlife Sanctuary	05.06.1974	88.400
280.		Talakaveri Wildlife sanctuary	31.08/01.09.1987	105.590
	KERALA			
281.	NATIONALPARK	Enavikulam National Park	31.01.1978	97.000
282.		Periyar National Park and Tiger reserve	27.10.1982	350.000
		Silent Valley National Park	23.11.1984	89.510
283.	WILDLIFE SANCTUARY	Aralam Wildlife Sanctuary		55.000
		Chimmony Wildlife Sanctuary		100.000
284.		Chinnar Wildlife Sanctuary		90.440
285.		Idukki Wildlife Sanctuary	09.02.1976	77.000
286.		Neyyar Wildlife Sanctuary	06.08.1958	128.000
287.		Parambikulam Wildlife Sanctuary	12.02.1973	285.000
288.		Peechi Vazani Wildlife Sanctuary	06.08.1958	125.000
289.		Peppara Wildlife Sanctuary	21.12.1983	53.000
290.		Periyar Wildlife Sanctuary	11.08.1950	427.000
291.		Shendunny Wildlife Sanctuary		100.320
292.		Thatikad Wildlife Sanctuary	27.08.1983	25.160
293.		Wynad Wildlife Sanctuary	30.05.1973	344.440

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294.	MADHYA PRADESH			
295.	NATIONAL PARK	Bandhavgarh National Park	23.03.1968	105.400
296.		Fossil National Park	17.06.1983	0.270
297.		Indravati National Park and Tiger Reserve	21.12.1978	1258.000
298.		Kanger National Park	22.07.1982	200.000
299.		Kanha National Park and Tiger Reserve		940.000
300.		Madhav National Park	01.01.1959	337.000
301.		Panna National Park	17.10.1981	543.000
302.		Pench National Park	30.09.1977	293.000
303.		Sanjay National Park	23.09.1981	1938.000
304.		Satpura National Park		524.000
305.		Van Vihar National Park	27.07.1979	4.450
306.	WILDLIFE SANCTUARY	Achanak Mar Wildlife Sanctuary	28.06.1975	551.550
307.		Badalkhol Wildlife Sanctuary	28.08.1975	104.350
308.		Bagdana Wildlife Sanctuary	15.02.1978	478.900
322.		Pamad Wildlife Sanctuary	13.03.1983	262.000
323.		Panpatha Wildlife Sanctuary	04.06.1983	245.840
324.		Pench Wildlife Sanctuary	30.09.1977	449.390
325.		Phen Wildlife Sanctuary	10.03.1983	110.740
326.		Ralamandal Wildlife Sanctuary		234.550
327.		Ratapani Wildlife Sanctuary		686.790
328.		Sailana Wildlife Sanctuary	04.06.1983	12.960
329.		Sanjay (Dubri) Wildlife Sanctuary	30.08.1975	364.590
340.		Sardarpur Wildlife Sanctuary		348.120
341.		Samarsot Wildlife Sanctuary	02.02.1978	430.360
342.		Singhori Wildlife Sanctuary		287.910
343.		Sitanadi Wildlife Sanctuary	01.11.1974	553.360
344.		Son Gharial Wildlife Sanctuary	23.09.1981	209.000
345.		Tamor Pingla Wildlife Sanctuary	20.02.1978	608.520
346.		Udanti Wild Buffalo Wildlife Sanctuary	09.03.1983	247.590

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	MAHARASHTRA			
347.	NATIONAL PARK	Gugamal National Park and Tiger Reserve	27.11.1987	361.800
348.		Nawegaon National Park	22.11.1975	133.880
349.		Pench National Park		257.260
350.		Sanjay Gandhi National Park	04.02.1983	86.960
351.		Tadoba National Park	31.03.1955	116.550
352.	WILDLIFE SANCTUARY	Andheri Wildlife Sanctuary		509.270
353.		Aner Dam Wildlife Sanctuary		89.940
354.		Bhimashankar Wildlife Sanctuary		130.780
355.		Bor Wildlife Sanctuary	27.11.1950	61.100
356.		Chandoli Wildlife Sanctuary		308.970
357.		Chapnala Wildlife Sanctuary		134.780
358.		Gautala Autram Wildlife Sanctuary		260.610
359.		Great Indian Bustard Wildlife Sanctuary	29.09.1979	8496.440
360.		Jaikwadi Wildlife Sanctuary		341.050
361.		Kalsubai Harish Chandragad Wildlife Sanctuary		361.810
362.		Karnala Wildlife Sanctuary	06.05.1968	4.480
363.		Kato Purna Wildlife Sanctuary		52.790
364.		Koyna Wildlife Sanctuary		423.550
365.		Malvan (Marine) Wildlife Sanctuary		29.120
366.			05.09.1985	1597.230
367.		Nagziri Wildlife Sanctuary	06.08.1969	152.810
368.		Nandur Madmaheshwar Wildlife Sanctuary		100.120
369.		Painganga Wildlife Sanctuary		324.620
370.		Kato Purna Wildlife Sanctuary		52.790
371.		Koyna Wildlife Sntuary		423.550
372.		Malvan (Marine) Wildlife Sanctuary		29.120
373.		Melghat Wildlife Sanctuary	05.09.1985	1597.230
374.		Nagziri Wildlife Sanctuary	06.08.1969	152.810

S.No.	STATE	NAME OF NATIONAL PARK/SANCTUARY	DATE OF ESTABLISHMENT	AREA(SQ.KM) 1994
375.		Nandur Madmaheshwara Wildlife Sanctuary		100.120
376.		Painganga Wildlife Sanctuary		324.620
377.		Phansad Wildlife Sanctuary		69.790
378.		Radhanagari Wildlife Sanctuary		371.830
379.		Rehekari Wildlife Sanctuary		2.170
380.		Sagreshwar Wildlife Sanctuary		10.870
381.		Tansa Wildlife Sanctuary	12.02.1970	304.810
382.		Yawal Wildlife Sanctuary	21.02.1969	177.520
	MANIPUR			
383.	NATIONAL PARK	Keibul Hamjao National Park	21.11.1975	40.000
384.		Sirohi National Park	25.11.1982	41.800
385.	WILDLIFE SANCTUARY	Yagoupokpi Hokehao Wildlife Sanctuary		184.850
	MEGHALAYA			
386.	NATIONAL PARK	Balphakram National Park		330.220
387.		Nokrek National Park		47.480
388.	WILDLIFE SANCTUARY	Baghmara Wildlife Sanctuary		0.027
389.		Nongkhylllem Wildlife Sanctuary	25.03.1981	29.000
390.		Sijju Wildlife Sanctuary	30.03.1979	5.180
	MIZORAM			
391.	NATIONAL PARK	Blue Mountain National Park		50.000
392.		Murlen National Park		200.000
393.	WILDLIFE SANCTUARY	Dampa Wildlife Sanctuary	20.01.1976	500.000
	NAGALAND			
394.	NATIONAL PARK	Intanki National Park		202.020
395.		Fakim Wildlife Sanctuary	01.12.1983	6.410
396.		Pulicbadze Wildlife Sanctuary	01.12.1979	23.240
397.		Rangapahar Wildlife Sanctuary		4.700

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	ORISSA			
398.	NATIONAL PARK	Bhitar Kanika National Park	03.10.1988	367.000
399.		North Simlipal National Park and Tiger Reserve	06.08.1980	845.700
400.	WILDLIFE SANCTUARY	Balukhand-Konarak Wildlife Sanctuary	23.04.1984	71.720
401.		Bhitar Kanika Wildlife Sanctuary	22.04.1975	170.000
402.		Chandka-Dampara Wildlife Sanctuary	20.12.1982	175.790
403.		Chilka Lake Wildlife Sanctuary	15.10.1973	15.530
404.		Debrigarh Wildlife Sanctuary		346.910
405.		Karlapat Wildlife Sanctuary		147.660
406.		Khalasuni Wildlife Sanctuary	07.01.1982	116.000
407.		Kotgarh Wildlife Sanctuary	03.12.1981	399.550
408.		Kuldiah Wildlife Sanctuary	04.01.1984	272.750
409.		Lakhari Valley Wildlife Sanctuary		118.870
410.		Mahanadi Baisipalli Wildlife Sanctuary		168.350
411.		Nandan Kanan Wildlife Sanctuary	03.08.1979	14.260
412.		Satkosia Gorge Wildlife Sanctuary	19.05.1976	795.520
413.		Simlipal Wildlife Sanctuary	03.12.1979	2200.000
414.		Sunabeda Wildlife Sanctaury	28.07.1983	600.000
415.		Ushakothi Wildlife Sanctuary	06.09.1962	304.030
	PUNJAB			
416.	WILDLIFE SANCTUARY	Abohar Area Wildlife Sanctuary		186.000
417.		Bir Bunerheri Wildlife Sanctuary	28.02.1952	6.500
418.		Bir Gurdial Pura Wildlife Sanctuary	19.09.1977	6.100
419.		Bir Motibag Wildlife Sanctuary	28.02.1952	6.400
420.		Govt. Forest Area of Village Takhni and Rehampur		3.820
421.		Harike Lake Wildlife Sanctuary	26.08.1982	86.000

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	RAJASTHAN			
422.	NATIONAL PARK	Desert National Park	04.08.1980	3162.000
423.		Keoladeo Ghana National Park	10.03.1981	28.730
424.		Ranthmblor National Park and Tiger Reserve		392.000
425.		Sariska National Park and Tiger Reserve	28.08.1982	273.800
426.	WILDLIFE SANCTUARY	Bandha Baratha Wildlife Sanctuary		192.760
427.		Bassi Wildlife Sanctuary		152.900
428.		Bhensroadgarh Wildlife Sanctuary	05.02.1983	229.140
429.		Darrah Wildlife Sanctuary	07.11.1955	265.800
430.		Jaisamand Wildlife Sanctuary	07.11.1957	52.000
431.		Jamwa Ramgarh Wildlife Sanctuary	31.05.1982	300.000
432.		Jawahar Sagar Wildlife Sanctuary	22.09.1980	100.000
433.		Keladevi Wildlife Sanctuary	19.07.1983	676.380
434.		Kumbhalgarh Wildlife Sanctuary	13.07.1971	578.250
435.		Mt. Abu Wildlife Sanctuary	07.04.1960	288.840
436.		Nahargarh Wildlife Sanctuary	22.09.1980	50.000
437.		National Chambal Wildlife Sanctuary	20.07.1983	280.000
438.		Phulwari Wildlife Sanctuary	06.10.1983	511.410
439.		Ramgarh Vishari Wildlife Sanctuary	20.05.1982	307.000
440.		Sajjangerh Wildlife Sanctuary		5.190
441.		Sariska Wildlife Sanctuary	04.08.1958	492.000
442.		Sawai Mansingh Wildlife Sanctuary		127.600
443.		Shergarh Wildlife Sanctuary	30.07.1983	98.710
444.		Sita Mata Wildlife Sanctuary	02.01.1979	422.940
445.		TalChapper Wildlife Sanctuary	19.09.1962	7.900
446.		Todgarh Rawali Wildlife Sanctuary	28.09.1983	495.270
447.		Van Vihar Wildlife Sanctuary	07.11.1955	59.930

S.No.	STATE	NAME OF NATIONAL PARK/SANCTUARY	DATE OF ESTABLISHMENT	AREA(SQ.KM) 1994
	UTTAR PRADESH			
475.	NATIONAL PARK	Corbett National Park and Tiger Reserve	06.08.1936	520.820
476.		Dudhwa National Park and Tiger Reserve	17.05.1976	488.290
477.		Gangotri National Park	19.09.1989	2390.000
478.		Govind Pashu Vihar National Park	26.02.1990	472.080
479.		Nanda Devi National Park	18.08.1980	630.330
480.		Rajaji National Park	12.08.1983	820.030
481.		Valley of Flowers National Park	01.01.1980	87.500
482.	WILDLIFE SANCTUARY	Askot Wildlife Sanctuary	30.07.1986	600.000
483.		Bakhora Wildlife Sanctuary	08.05.1990	28.940
484.		Binsar Wildlife Sanctuary	25.05.1988	45.590
485.		Chandra Prabha Wildlife Sanctuary	25.05.1957	78.000
486.		Govind Pashu Vihar Wildlife Sanctuary	22.03.1955	953.120
487.		Hastinapur Wildlife Sanctuary	30.07.1986	2073.000
488.		Kaimpur Wildlife Sanctuary	10.08.1982	500.750
489.		Katemigaghat Wildlife Sanctuary	31.05.1976	400.000
490.		Kedarnath Wildlife Sanctuary	21.01.1972	957.000
491.		Kishanpur Wildlife Sanctuary	07.10.1972	227.120
492.		Lakh Bahosi Wildlife Sanctuary	21.03.1988	80.230
493.		Mahavir Swami Wildlife Sanctuary	25.03.1977	5.000
494.		National Chambal Wildlife Sanctuary	02.01.1979	635.000
495.		Nawabganj Wildlife Sanctuary	07.08.1984	2.240
496.		Okhla Wildlife Sanctuary	08.05.1990	4.000
497.		Paravati Aranya Wildlife Sanctuary	23.05.1990	11.000
498.		Patna Wildlife Sanctuary	22.09.1990	1.000
499.		Ranipur Wildlife Sanctuary	24.01.1977	230.000
500.		Saman Wildlife Sanctuary	2305.1990	5.000
501.		Samaspur Wildlife Sanctuary	10.08.1987	7.990
502.		Sandi Wildlife Sanctuary	08.05.1990	3.000
503.		Sohagoveba Wildlife Sanctuary	14.11.1988	452.570
504.		Sonanadi Wildlife Sanctuary	09.01.1987	301.760

S.No.	STATE	NAME OF NATIONAL PARK/SANCTUARY	DATE OF ESTABLISHMENT	AREA(SQ.KM) 1994
505.		Surahtal Wildlife Sanctuary	27.03.1991	34.000
506.		Sursarovar Wildlife Sanctuary	27.03.1991	4.000
507.		Turtle Wildlife Sanctuary	21.12.1989	7.000
508.		Vijay Sagar Wildlife Sanctuary	26.06.1990	3.000
	WEST BENGAL			
509.	NATIONALPARK	Neora Valley National Park		88.000
510.		Sunderbans National Park	0606.1978	0.000
511.	WILDLIFE SANCTUARY	(Paramadan) Bibhuti bhushan Wildlife Sanctuary	29.10.1980	0.6000
512.		Ballavpur Wildlife Sanctuary	11.07.1977	2.000
513.		Bethudahari Wildlife Sanctuary	29.10.1980	1.200
514.		Buxs Wildlife Sanctuary and Tiger Reserve		251.880
515.		Champrameri Wildlife Sanctuary	24.06.1976	9.600
516.		Gorumaru Wildlife Sanctuary	24.06.1984	8.730
517.		Halliday Wildlife Sanctuary	24.06.1976	5.950
518.		Jaldapara Wildlife Sanctuary	03.04.1943	216.510
519.		Jore Pokhri Wildlife Sanctuary		0.040
520.		Lothian Island Wildlife Sanctuary	24.06.1976	38.000
521.		Mahananda Wildlife Sanctuary	24.06.1976	127.220
522.		Narendrapur Wildlife Sanctuary		0.100
523.		Raiganj Wildlife Sanctuary		1.300
524.		Ramnabagan Wildlife Sanctuary	30.09.1981	0.140
525.		Sajnakhali Wildlife Sanctuary	24.06.1976	360.400
526.		Senchal Wildlife Sanctuary	24.06.1976	38.600

Appendix B:

List of IAs pending/ disposed of in Writ Petition (C) 337 of 1995

I.A. Nos.	SUBJECT MATTER	STATUS
2	This application was filed in 25.10.1996 by the petitioner seeking additional directions from the Court on the subject of conservation of wildlife and the implementation of the Act. The additional directions sought in this application were: - Direction to respondent No.1 to immediately call a meeting of the Indian Board of Wildlife; - Direction to all the Respondents to constitute respective Wildlife Advisory Boards and nominate its members; - Direction to Respondents to appoint Honorary Wildlife Wardens in each district.	The Court issued notice to the respondents on 24.2.1997, and thereafter passed a detailed order on 22.8.1997, where, among other things, the Court directed the respondent State governments to set up the State Wildlife Advisory Boards and also appoint Honorary Wildlife Wardens. It further directed that any proposal for de-notification of a sanctuary/ national park must be referred to the Indian Board for Wild Life for its opinion, and only thereafter shall the proposal be placed for consideration before the Legislative Assembly along with the opinion of the Indian Board for Wild Life. Importantly the Court also directed the respondent State governments to: - Issue proclamation under section 21 in respect of sanctuaries/ national parks within 2 months; and - complete the process of determination of rights and acquisition of land or rights as contemplated under the Act within a period of one year. Detailed examination of developments in this IA are considered in Chapter 2.
11	This 1998 application was filed jointly by 14 peoples' organisations and NGOs working closely with populations living inside and around protected areas across the country. The application sought to place on record material establishing that the order dated 22.8.1997 passed by the Court was being misused by line departments at the ground level to coerce and forcibly evict people living inside protected areas in blatant violation of statutory as well as constitutional rights.	The application was summarily dismissed by the Court on 20.7.1999 without assigning any reasons.

I.A. Nos.	SUBJECT MATTER	STATUS
13	The State of Manipur filed this application for exemption from complying with the orders of the Court for supply of fire arms to foresters in light of the fact that the State is a disturbed area.	The Court granted this exemption, but also kept the application pending for several years, adjourning it from time to time. Finally, the application was disposed of on 18.7.2006 with the following order: "The exemption granted will continue until further orders till the situation improves in the State of Manipur where-upon the State will supply fire arms to the foresters and inform this Court accordingly by filing an affidavit."
27	This application was filed on 2.12.2002 by State of Orissa for modification of order dated 13.11.2000 and for permitting diversion of 129.707 ha of forest area out of total proposed 142.699 ha coming within the Sunabeda Wildlife Sanctuary of Nuapada District in Orissa to be used as submergence area for reservoir of Upper Jonk Irrigation Project.	On 24.03.2003 the Court referred this matter to the Indian Board for Wild Life for consideration. Subsequently, the Court was informed of the decision of the Standing Committee of IBWL of 26.2.2002 that the circumstances under which the construction of the dam was done without getting approval under Forest (Conservation) Act, 1980 should be ascertained and responsibility fixed for violation. The IBWL noticed that the State Government had increased the height of the dam in September 1993 in anticipation of approval of Government of India for diversion of additional forest area required for this purpose. Accordingly, the Court directed the State Government to file an affidavit stating as to whether the approval was obtained and if so whether the responsibility had been fixed. The State government submitted that the concerned officers have been admonished, and that Rs. 35.14 lakhs has been given to the Forest Department along with 575 ha of land for Compensatory Afforestation. The Court observed that after such a long elapse of time it is not possible to direct prosecution of the responsible officers, and accordingly on 6.2.2008 the application was finally disposed of.
30-32, with IA 34	IA 30-32 have been filed by Uttaranchal Pey Jal Nigam for use of 0.275 hectare of forestland in Rajaji National Park for Drinking Water Scheme, while IA 34 is the report submitted by Central Empowered Committee.	On 22.09.2003, upon the direction of the Court, the CEC filed its report dated 19th September, 2003. The Report, inter alia, notices that the Drinking Water Scheme undertaken by the applicant- Uttaranchal Pey Jal Nigam is in public interest for which no alternative non-forest land is available, the scheme requires minimum use of forest

I.A. Nos.	SUBJECT MATTER	STATUS
		land and no felling of trees is involved, and that the Scheme is designed for meeting the urgent requirement of drinking water for the Ardh Kumbh Mela and also for the population residing near the Swargashram Laxman Jhoola area. The C.E.C recommended grant of permission to the applicant subject to certain conditions. The Court directed the Ministry of Environment & Forests to consider the question of grant of approval under the Forest Conservation Act as suggested in the report of the CEC, and accordingly disposed of the applications. As an offshoot of these proceedings, the report of the CEC states that 2 acres of forestland is under illegal occupation by Kailashanand Mission Trust within the Rajaji National Park. The Court granted time to the Trust to file its responses, and further directed: "Having regard to the need to preserve the Rajaji National Park, we direct the Chief Secretary of the State of Uttaranchal to file an affidavit with regard to any other illegal occupation or encroachment in the said Park." On 7.11.2003, a further direction was made to the Government of Uttaranchal to file a report as to the progress made in the removal of encroachment within a period of four weeks. These orders have resulted in a spate of subsequent IAs, which are pending hearing and final disposal by the Court. (See below.)
46-47 and 51, 58-60, 69, 70, 71 & 72	46-47 and 51 Applications filed on 05.12.03 on behalf of Shri Sureshwari Devi Mandir Prabandhak Samiti for impleadment, with prayer to order stay of demolition or damage to the temple of applicant. 58-60 Applications filed on 25.6.2004 on behalf of 'Swami Dhirendra' Manager "Maharishi Munhi", Yoga Ashram Sadhna Kutir, Natural Hospital, Shankara Charya Nagar Swarag Ashram, Uttaranchal for impleadment, with prayer to perform routine poojas and yogas and Satsang at the said Yoga Ashram.	Various interim directions passed. These matters are to be heard finally and disposed of along with IA 34.

I.A. Nos.	SUBJECT MATTER	STATUS
	69, 70, 71 & 72 Applications filed on 19.11.2004 on behalf of Mauni Baba Gufa & Anna Chhetra to grant permission of lease of forest land for 30 years to Mahant Laxman Dass jee, who is managing the Mauni Baba Gufa and Anna Chhetra in Rajaji National Park, Gohari Range, Dehradun, Uttaranchal for the development of spiritual knowledge and philanthropic activities in the area; and to permit the applicant to have access to the Mauni Baba Gufa and Anna Chhetra, to perform daily Puja and Arti by Mahant Laxman Dass and re-opening of langar (free food) for the pilgrims which was sealed by the forest authorities, allegedly pursuant to the order of this Hon'ble court.	The IA was referred to the Standing Committee of the NBWL on 12.03.2004, which accepted the application, subject to a number of conditions. The Court examined these conditions in the light of the affidavits filed by the State of Maharashtra, both by the Water Resources Department as also by the Forest Department. The State government objected to the following conditions: - o That 228 square kms of land be provided for compensatory afforestation- this would have the absurd result that an area equivalent to 2 districts of the State would have to be dedicated to wildlife; - o That the water in the dam constructed be used only for wildlife- why then should the State government bother to construct this dam, also absurd; - o local community rights existing in 24 ha of the land to be diverted should not be disturbed.
33	This application has been filed 23.7.2003 by the State of Maharashtra for modification of order dated 13.11.2000 for construction of an irrigation project in a protected area.	In July 2006 the Court directed that the matter be again referred to the Standing Committee to re-consider these conditions, but no reply was received. Not inclined to wait interminably, on 23.3.2007, the Court passed an order allowing the project, and directing that all the conditions of the NBWL should be adhered to, except that condition no. 2 was altered to the extent that the State govt. shall provide 158 ha (instead of 228 sq. kms.) of alternative land for compensatory afforestation. The application was disposed of.
35 with 82	This application was filed on 14.10.2003 by State of Jharkhand with the prayer to direct MOEF to permit diversion of 145.26 ha of Dalma Wildlife Sanctuary forest land which is involved in Chandil left main canal and its distributaries situated in State of Jharkhand.	On 7.11.2003 the Court referred this matter to the Standing Committee of NBWL. Thereafter the project has been cleared subject to certain conditions to be complied with by the State of Jharkhand. On 23.11.2005 the Court passed an order accepting the recommendation, but making it clear that "diversion would be only on fulfillment of the conditions that have been imposed and mentioned in the affidavit filed by the Ministry of Environment and Forest." The applications were disposed of.
36 & 57	The said application has been filed on 9.10.2003 by State of Maharashtra for modification/direction with the prayer to modify order dated 13.11.2000 and to	The application was referred to CEC for comments on 7.11.2003. Report of the CEC was filed and numbered as IA no. 57. The Court called for the affidavits in response of

I.A. Nos.	SUBJECT MATTER	STATUS
	allow the applicant to effect diversion of 1658.00 hectares forest land for regularization of agri silivi plots in District Nandubar etc.	the State Government as well as the MoEF in response to the report of the CEC. When the matter was heard on 23.3.2007, counsel for the petitioners submitted that the project will involve the displacement of residents of 73 villages from inside Maheshwari Sanctuary. Since the newly enacted Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 directly impacts on the rights of the villagers residing inside the protected area, it would be appropriate to adjourn this matter, giving the counsel for the applicants time to study the implications of the said Act. The matter was adjourned for this purpose. Thereafter, when the matter came up for hearing on 14.11.2007, counsel for the petitioner sought a transfer of this application before the Forest Bench, that is, the Bench hearing the Godavarman case. This application is therefore no longer part of the WWF case.
37	This application has been filed on 18.10.2003 on behalf of Uttaranchal Jal Vidyut Nigam Limited with the prayer to grant permission for transfer of 48.385 hectares land (25 kms) from Jauljibi to Dharchula in Askot Musk Deer Sanctuary on a lease for a period of 35 years for the purpose of laying 132 KV transmission line.	This application was referred to Standing Committee of NBWL on 7.11.2003. After a site inspection, the Standing Committee granted the permission, but imposed certain conditions. At the hearing on 18.7.2006, the State Government submitted to the Court that these conditions were acceptable to it, and accordingly the Court granted the permission to the applicant subject to its compliance with the said conditions. The Court directed that the deposit of 5% of the project cost towards conservation costs would be subject to further orders. The Court also took note of the observation of the Standing Committee that the Nigam had constructed a power house in village Jumma in Pithoragarh tehsil, and there is a possibility that such construction is in violation of the statutory provisions as well as the order of the Court. An explanation was called for, but it was not clear whether the Standing Committee had received or considered any such explanation. The Court asked the NBWL to consider the matter. The report of the NBWL is awaited.
38-40	Applications filed on 17.10.2003 on behalf of Kailashanand Mission Trust for renewal of lease of 2 acres forestland within Rajaji National Park (Gohari Range,	It appears that the NBWL recommended the rejection of the renewal of the lease on the ground that the Trust has felled number of trees without permission. By order dated

I.A. Nos.	SUBJECT MATTER	STATUS
	Vidasini Block).	14.11.2007, the Court dismissed this application on the ground that Standing Committee of National Board of Wildlife has considered the application and recommended rejection.
48-50	Applications filed on 20.12.2003 on behalf of Kailashanand Mission Trust for renewal of three leases of forest land relating to supply of water to the Nature Cure Clinic and to repair the water tank and also to repair the pipelines laid through Rajaji National Park.	On 14.11.2007, after dismissing the application of the Kailashanand Mission Trust for renewal of lease in IA 38-40 (above) the Court observed that the prayer for consequential permission for renewal of leases for water supply area and permission to repairing the water line etc., has become infructuous. Therefore, these applications were also dismissed.
43-45, 81- 82	Applications filed on 17.12.03 on behalf of 'Swami Shankardas' disciple of 'Tat Wale Baba' for impleadment, with the prayer to perform routine poojas at the Samadi etc.	Initially, these applications were directed to be heard along with IA no. 34 above, but after being pressed for an early disposal, the Court heard the applications at length on 14.11.2007. It appears that not only were the applicants not being allowed to perform poojas, bhandaras and meditations in the "Bhoothnath Caves" at the edge of the Rajaji national Park, the applicants had also been evicted and the caves sealed in pursuance of the orders of the Court. The applicants claim was that his rights had not been settled as provided under the WPA. Being a sadhu who has lived in the caves all his life, he has every right to continue to live in communion with nature, since he does not know any other kind of life. The State government on the other hand argued that lighting of fires and residing in side national parks is expressly forbidden by the WPA, and holding of bhandaras particularly so. The Court finally passed the following order: "The applicant would, therefore, be at liberty to make an application under the Act for admission of the rights and privileges claimed by him to enter the sanctuary or to do or perform any act within the sanctuary. The authority may also consider whether the caves which have been sealed, should be opened for giving access to the applicant, in accordance with the provisions of the Act." The applications were disposed of.
52 with 95	IA No.52 was been filed on 13.1.2004 by Wildlife Trust of India to ensure re-location of 1390 Gujjar families inside the	During the pendency of the applications before the Supreme Court, the issue relating to rehabilitation of Gujjar families occu-

I.A. Nos.	SUBJECT MATTER	STATUS
	Rajaji National Park. By 23.3.2007 the relocation was complete, and therefore the application was disposed of as not pressed. Meanwhile a further application was filed being IA No. 95 bringing on record additional facts regarding the mushrooming of several unauthorized commercial establishments around the National Park, and seeking directions.	pying land within the Rajaji National Park was referred to NBWL, along with a direction to the Chief Wildlife Warden, Uttarakhand to file detailed report before the Standing Committee. The report of the NBWL however is still awaited. The Court also passed an order on 30.11.2007 directing the NBWL to look into the submission of the Wild Life Trust of India that several unauthorised commercial establishments are coming up within the Rajaji National Park, and that the State government has not taken any steps to remove them.
53	Application on behalf of Uttaranchal Pey Jal Sansthan Vikas Evam Nirman Nigam for grant of permission to transfer 0.1532 hectares reserve forest land situated in Rajaji National Park on lease basis for laying 40.20 MM pipeline in about 5000 meter length for construction of 8 CWR of 1000 KL capacity.	This matter was referred to Standing Committee of NBWL for its report on 12.03.2004. The Court recorded in order dated 23.11.2005 that the Standing Committee for the NBWL has rejected the proposal of the State Government. The State government filed its response to the report of the Standing Committee, strongly objecting to the rejection of its proposal, and to the fact that no reasons have been assigned for this decision. The Court heard the parties on 23.3.2007, and passed an order allowing the applicant to lay the pipeline within a period of 3 months, and thereafter hand back the possession of the land to the Forest Department.
54	Application filed on 26.2.2004 on behalf of State of Maharashtra to modify order dated 13.11.2000 and to grant permission for regularization of ek saali pattas land in favour of 180 Adivasis living in 707.64 hectares of land within Kalsubai H. Sanctuary and Great Indian Bustard Sanctuary.	On 16.4.2004 the Court referred the matter to the CEC for its report and recommendations. The CEC sent its report dated 13.7.2004 recommending that the proposal be rejected. The said report observes that as per the information given in the application a total of 2,160.64 ha of forest land is under the occupation of 771 encroachers in this particular forest division. Of this 624.68 ha is occupied by ineligible encroachers and 1,535.96 ha by eligible encroachers (as defined in the 18.9.1990 guidelines). But this present IA is only with respect to the eligible encroachers. The CEC observed:- "It is seen that on one hand large forest areas continue to remain under encroachment with ineligible encroachers, on the other hand piecemeal proposals for regularization of encroachments are made without first removing the ineligible encroachers. If

I.A. Nos.	SUBJECT MATTER	STATUS
		this trend continues, it may result in more and more forest area being encroached and irreversibly lost. In this case also neither removal of ineligible encroachers is contemplated nor payment towards cost of compensatory afforestation and Net Present Value of forest land is proposed." "In view of the above, it is recommended that IA no. 54 be disposed off with the direction that the State of Maharashtra should prepare a consolidated proposal for regularization of encroachments on forest land in favour of eligible encroachers including Eksali Plot holders in Ahmednagar district together with a time bound action plan for restoration of forest land by evicting ineligible encroachers." Subsequently, the Standing Committee for the NBWL also rejected the proposal of the State Government. When the matter came up on 23.3.2007, counsel for the petitioners submitted that the matter takes on a new colour in the light of the newly enacted Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, and would have to be re-examined totally. It would be appropriate to adjourn this matter, giving the counsel for the applicant time to study the implications of the said Act. The Court passed an order permitting the applicant to file a fresh response, and IA was adjourned. Thereafter, when the matter was heard on 14.11.2007, the State of Maharashtra informed the Court that it proposes to regularize the 'Eksali' leases of adivasis. The Court passed an order directing the State Government to submit a proposal in this regard to the National Board for Wild Life along with the Opinion of the Chief Wild Life Warden, Maharashtra within two weeks. It further directed the NBWL to examine the matter and submit a report to the Court. The report is awaited.
55-56	Application filed on 9.12.2003 on behalf of State of Maharashtra to modify order dated 13.11.2000 and to grant permission to submit proposal to Ministry of Environment & Forests for approval for de-reserving 62.46 hectares of land in Tadoba Andhari Tiger Reserve.Application	This matter was referred to the CEC for its report and recommendations on 16.04.2005. The CEC sent its report dated 13.7.2004 recommending that the proposal be rejected. The report states: "(T)he CEC is of the view that use of 62.466 ha. forest area falling inside Tadoba Andhari

I.A. Nos.	SUBJECT MATTER	STATUS
	filed on 26.10.2004 on behalf of State of	Tiger Reserve for creating an irrigation potential of 550 ha. area is environmentally and economically not desirable. As seen during the site visit, the proposed project site is a breeding ground for tiger population of the Tiger Reserve. Construction of reservoir is likely to result in this area becoming a potential poaching ground. The adverse effect of the project on conservation and management of the protected area are not likely to be containable." Subsequently, the Standing Committee for the NBWL also rejected the proposal of the State Government. On 29.8.2006, the Court passed the following order: "The Central Empowered Committee as also the Standing Committee of the National Board for Wildlife have rejected the proposal of the applicant-State of Maharashtra. In this view, we dispose of the application with liberty to the State of Maharashtra to take, if so advised, other appropriate step, if permissible in law."
57	Maharashtra with the prayer to modify order dated 13.11.2000 and permit the applicant to construct a canal through Mayureshwar Sanctuary Area.	The Court referred this matter to the Standing Committee NBWL for consideration on 30.8.2004. The report is awaited.
61	The said application has been filed on 5.7.2004 on behalf of Union of India, Department of Atomic Energy with the prayer to permit Union of India (Department of Atomic Energy; Atomic Minerals Directorate for Exploration and Research) to carry out uranium exploration in Chitrial & Peddagattu in Rajiv Gandhi Wildlife Sanctuary Tiger Reserve, Andhra Pradesh.	In its meeting held on 24.12.2003 the Standing Committee of National Board for Wild Life considered this proposal and agreed to the exploratory phase of the project subject to the condition that Rs.5 crore shall be paid by the user agency for the better conservation and management of Rajiv Gandhi Wild Life Sanctuary. This finding was accepted by the Court in its order dated 30.8.2004, where it further directed the user agency to submit a detailed report regarding the outcome of the exploratory phase and seek further clearance in case uranium is found in the Project Tiger Area. Subsequently, vide order dated 26.07.2005 the Court observed that since the sum of Rs. 5 Crores has been deposited, no further orders are required to be passed, and therefore the application was disposed off.
62 & 63	These applications were filed on 29.7.2004 on behalf of M/s Himachal	On 30.8.2004 the matter was referred to the Standing Committee of NBWL.

I.A. Nos.	SUBJECT MATTER	STATUS
	Consortium Power Projects Ltd. with the prayer to modify the order dt. 13.11.2000 and grant permission to applicant for setting up of Lambadug Hydro Electric Project (25 MW) in the Dhauladhar Wildlife Sanctuary in the State of Himachal Pradesh.	Sometime in 2006, the NBWL cleared the project, and the matter now awaits the final permission of the Court.
65-66 with IA No. 86	These applications were filed on 8th September, 2004 by State of Maharashtra for grant of permission to de-reserve 4.56 hectare land out of total land of Pench National Park of 25,512.192 hect (only 0.02%). The State government required this land as part of the Sagar Nalla Minor Irrigation Project.	On 6.12.2004 the matter was referred to the Standing Committee of the NBWL for its report, which rejected the proposal. Thereafter an amended proposal was filed by the State government (vide IA No. 86) for de-reservation of 1.48 ha of land, constituting 0.02 % of the National Park, and on 29.8.2006 the Court directed that this fresh proposal be placed before the Standing Committee of the NBWL. On 25.4.2007 the Court was informed that the NBWL has not been constituted, and that the minor irrigation project which is supposed to supply water to Agriculturists in Nagpur district, is being held up. Meanwhile, several farmers have committed suicide due to non-availability of water and poor rains. Taking note of these circumstances, the Court passed the following order: "Under the above circumstances, we grant permission to the concerned authorities of the State of Maharashtra lay down the pipeline through the Pench National Park subject to the condition that they shall cause the minimum disturbance to the ecological features or to the animal movement in the national park while laying the pipeline. They may also enter the National park as and when any repair work is required. They shall also furnish the details of the work to the Director, Pench National Park, beforehand so that he can cooperate with the project. It is also made clear that they shall not use more than 1.48 ha. of land from the Pench National Park for this purpose." The application was therefore disposed of.
67 with 76 in IA No. 2	The said applications have been filed on 18th June, 2004 by Mr. Amit Kumar, Advocate on behalf of Maharashtra Krishna Valley Development Corporation with the prayer to: (a) modify the order dated 13.11.2000; (b) pass direction granting permission to	On 16.12.2004 the matter was referred to the Central Empowered Committee for its recommendations. The CEC in its reports 30.6.2005, recommended that the permission sought by the Krishna Valley Development Corporation be rejected.

I.A. Nos.	SUBJECT MATTER	STATUS
	the applicant to use 7.76 hectares of land of Bhimshankar Wildlife sanctuary for proposed minor irrigation project.	It further recommended that the Chief Secretary of the Government of Maharashtra be asked to fix responsibility for work undertaken in violation of the Forest (Conservation) Act and the orders of this Court, and to ensure that projects involving use of forest land are implemented only after obtaining necessary approval under the Act and if the land falls within a National Park or Wildlife Sanctuary, only after obtaining the permission of this Court. The submission of the State Forest Department is that work started and continued on the project despite its repeated objections and letters pointing out that this was in violation of the law. Time was granted to the Corporation for filing its response to these recommendations. When the matter was heard on 23.3.2007, the State government argued that the project was in public interest to provide drinking water, and the recommendation of the CEC that approval be rejected, is unacceptable. Accordingly, the Court referred the matter to the NBWL, whose report is awaited.
73	The said application for directions has been filed on behalf of Director Rehabilitation, Tehri Dam Project.	On 26.07.05 this application was referred to the Standing Committee of NBWL. Thereafter when the matter came up for hearing on 29.8.2006, the Court was informed that the Standing Committee of the National Board for Wildlife has accepted the proposal of diversion of the land in question [2527.90 hectares] subject to certain conditions. The State government informed the Court that the conditions were acceptable to it. Accordingly, on 29.8.2006 the Court accepted the recommendation and permitted the diversion, subject to the fulfillment of the conditions imposed, and the application was disposed of.
75	This application was filed on 2.4.2005 on behalf of State of Chattisgarh for modification of order dated 13.11.2000, for the purpose of diversion of land covering 20,400 ha and 420 villages.	On 26.7.2005 the Court referred the application to the CEC as well as to the Standing Committee of NBWL, to be considered independently by both. While the CEC has submitted its report on 3.4.2006 the NBWL has yet to take a decision and communicate the same to the Court. Nor had response been filed by the State Government. These documents are awaited and only thereafter will

I.A. Nos.	SUBJECT MATTER	STATUS
		the matter be heard. When the matter came up for hearing on 23.3.2007, counsel for the petitioner submitted that this IA involved 20,400 ha of land covering 420 forest villages, and therefore there is an even greater need to reconsider all the reports in the light of the new Forest Rights Act, 2006. The application was therefore adjourned. However, when the matter came up on 14.11.2007, counsel for the petitioner submitted that this application be transferred to the Forest Bench hearing the Godavarman case. His request was allowed, and this application is no longer part of the WWF case.
77	This application has been filed on behalf of Uttaranchal Pey Jal Sansthan seeking directions.	Vide order dated 26.7.2005, this application was referred to the Standing Committee of the NBWL. Report is awaited despite the matter having come up on several occasions.
78 & 79	These applications have been filed on 22.7.2005 on behalf of Aggarwal Pigments Pvt. Ltd., for directions permitting it to draw water from Chambal River inside the Gharial Wild Life Sanctuary in Kota Rajasthan.	The matter was been referred to the Standing Committee of the NBWL on 23.11.2005, which rejected the proposal filed by the applicants. Although the Court granted the applicant some time to respond to the report of the NBWL, when the matter came up on 6.2.2008, the application was not pressed, and in the light of the rejection by the NBWL, the Court dismissed the application.
80	This application has been filed on 23.8.2005 on behalf of Uttaranchal Pey Jal Nigam for permission to lay pipeline through the Rajaji National Park under the Swarg Ashram Laxman Jhula Water Supply Scheme.	The Court referred this application to the CEC on 23.11.2005, which filed its recommendations on 21.2.2006. However, on 14.11.2007 the applicant sought permission to withdraw the application with liberty to move a fresh application with appropriate charges. The application was dismissed as withdrawn.
83 & 84	The said applications have been filed on 21.11.2005 on behalf of Himmat Singh for impleadment and modification of order dated 13.11.2000, and for regularisation of possession over 3 1/8 acres of land in Tanda Block Forest, Haldwani, District Nainital in lieu of earlier occupied forest land.	The matter was referred to the CEC vide order dated 23.11.2005, which filed its recommendations on 1.2.2006. The applicant has also filed its response. The CEC reported that the allotment requires to be considered by the Forest Advisory Committee. Thus on 14.11.2007, the Court passed an order as follows: "The applicant is permitted to submit his application before the Forest Advisory Committee for regularization within four weeks. The Committee, after considering the application shall file a report before this

I.A. Nos.	SUBJECT MATTER	STATUS
		Court within six weeks thereafter. Status quo as on today shall be maintained till the decision of the Advisory Committee." This is the first time in the WWF case the Court has passed a direction that an application be considered by the FAC. The decision of the FAC has not come in yet.
87 & 88 Along with 94	The said applications have been filed on behalf of State of Haryana for de- notification and directions for permission to have BML- Hansi Branch- Butana Branch Multipurpose Link Channel traverse through 4.9. acres of protected area.	IA 87-88 were referred to the Standing Committee of the NBWL on 29.8.2006, while IA 94 was also referred to the NBWL on 17.10.2006. However, on 18.7.2007 when the matter came up for hearing, the Court disposed of the applications on the ground that they were pending before the NBWL, and granting the applicants to pursue the matter with the Board.
89	The said application has been filed on behalf of State of Andhra Pradesh for permission to carry out project and directions.	On 29.8.2006 the Court referred the application to the Central Empowered Committee. The report of the CEC is awaited. At the request of counsel for petitioner, this application was transferred to the Forest Bench hearing the Godavarman case on 14.11.2007, and is no longer part of the WWF case.
90	The said application has been filed on behalf of State of Uttaranchal for permission for de-reservation of forest land for construction of 27 km road through the Govind Vihar Wild Life Sanctuary.	The matter was referred to the Standing Committee of the NBWL on 29.8.2006. The NBWL submitted a report rejecting the proposal for diversion of land. Accordingly, on 14.11.2007 the Court rejected the prayer of the State of Uttarakhand, and the application was dismissed.
91 & 31	The said application has been filed on behalf of State of Uttaranchal, for directions permitting the diversion of 0.33 ha of land from the Askote Musk Deer Wild Life Sanctuary for a small hydel project.	On 18.7.2006 the court directed that the application be considered by the Standing Committee of the NBWL. The report of the NBWL is awaited despite the matter having been listed several times in Court. At the hearing on 6.2.2008, counsel for the petitioner submitted that he was deeply concerned that the State of Uttarakhand has made several applications for diversion of small pieces of land from the same WLS at Askote, and there is a need to consider how much of the sanctuary has been chipped away in this manner. However, the Court was inclined to agree with the State government that this is a crucial project and no further delay can be brooked, and disposed of the applications with the following order: "As the land required is less than one acre

I.A. Nos.	SUBJECT MATTER	STATUS
		and as NBWL has not submitted its report for a long time, we permit the Uttaranchal Jal Vidyut Nigam Ltd. to proceed with the construction. The Vidyut Nigam and the State Government shall however comply with any conditions that may be imposed by the NBWL in due course."
92	The said application has been filed on behalf of State of Madhya Pradesh for directions seeking permission for rationalization of boundaries of certain protected areas.	On 29.8.2006 when the IA came up for hearing, the Court directed Mr. Raj Panjwani as well as the counsel for MOEF to study the issue and file their responses. Thereafter, when the Application came up for hearing 14.11.2007, the Court directed that this application be heard along with IA No. 2, and also directed the MoEF as well as the NBWL to file their response to the application.
93	The said application was filed on behalf of State of Andhra Pradesh, for directions.	On 29.8.2006 the Court issued notice to the respondents to the application. When the matter came up for hearing on 4.4.2007, the Court disposed of the application with the following order: "Both sides agree. IA.No. 93 is allowed accordingly."
96 & 97	The said application has been filed on behalf of National Hydroelectric Power Corporation Ltd. regarding two projects in Uttaranchal.	In this application relating to two NHPC projects in the State of Uttarakhand, it appears that the NBWL had already granted approval, and the NHPC has come before the Court to seek its final approval. However, it was pointed out that the approval granted by the NBWL was subject to the condition that the State government will identify and notify additional land for extending the Sanctuary area which is lost by the implementation of the project work. This land was not identified or notified by the State government, which took the position that until the Committee on Rationalisation of Boundaries has submitted its report, nothing can be done by the State government. The Court however refused to hold up the matter, and on 6.2.2008 granted approval to the NHPC to proceed with the projects, with a direction to the State government to identify the land at the earliest. The applications have been disposed of.
100	These applications have been filed for the implementation of the proposal for translocation of Asiatic Lions from the Gir National Park in Gujarat to Kuno Wild Life Sanctuary in Madhya Pradesh.	When the matter came up for hearing on 30.11.2007, the State of Gujarat expressed its serious objections to the proposal, and the State of Madhya Pradesh also made submissions. The Court directed that both

I.A. Nos.	SUBJECT MATTER	STATUS
		the proposal of the MP government and the objections of the Gujarat government should be placed before the NBWL, which after considering both, should make some recommendations to the Court. The report of the NBWL is awaited.
101	Application filed by Uttaranchal Pey Jal Nigam for permission to divert 0.60 hectares of land from Kedarnath Wild Life Sanctuary for a drinking water pipeline project.	On the 14th of November 2007, this application was referred to the NBWL, but the report was not received. On the 11th of March 2008, the Court passed an order allowing the application, subject to the permission of the NBWL and the conditions imposed by it.
103	An application filed by the State of Maharashtra for diversion of forest land for the purpose of regularisation of ek sali plots.	This application was referred to the NBWL for its opinion on 14.11.2007, but no report was received. However, when the application came up on 11.3.2008, the Court referred the matter to the Forest Bench.
104-105	An application by State of Maharashtra for permission to divert land inside protected area for construction of a dam.	This application was referred to the NBWL for its opinion on 14.11.2007, but no report was received. When the matter came up for hearing on 11.3.2008, Counsel for the NBWL stated that no decision could be taken at its last meeting since the applicant had not supplied all the project documentation, and simply forwarded the application filed by it in the Court. The Court passed an order directing the applicant to furnish the complete documentation to the NBWL, and decided to await the report.
106	An application regarding settlement of rights in Panna National Park and for diversion of 1300 hectares for this purpose.	This matter was also referred to the NBWL for its opinion on 14.11.2007, but no report was received. When it came up for hearing on 11.3.2008, it was pointed out that the Collector's Award under Section 24 has recommended that certain land containing villages, rights in forests, diamond mines, railway lines, and road be excluded from the boundaries of the National Park. The Court decided to await the report of the NBWL.
107	The application relates to the construction of a 330 MW hydel project in the Askot Wild Life Sanctuary.	This application was also referred to the NBWL for its recommendation. When the report was not received at the hearing on 11.3.2008, the Court was informed that complete project details have not been supplied to the NBWL. State government also stated that it was helpless since permission for Rationalisation of Boundaries is pending with the Forest Bench. It is not clear from the order passed whether this matter has been transferred to the Godavarma Bench or adjourned.

Appendix C:
Compilation of all reported orders passed by the Supreme Court in Writ Petition 337/95

Date	Extract of order passed
25.08.95	"Issue rule nisi." Coram: S.C. Agrawal & S.P. Bharucha, JJ.
24.02.97 in I.A.No.2	"Issue notice. Notice may be served on the counsel of various State Governments and the counsel for the Union of India returnable in four weeks." Coram: S.C. Agrawal & S. Saghir Ahmad, JJ.
25.03.1997 in I.A.No.2	"As regards the application for directions that has been submitted by the Petitioner, the respondent No.1 is directed to take steps to call meeting of the Indian Board of Wild Life and submit the report about the progress that has been made in this regard within a period of one month. The Respondent States are directed to inform the court what steps they have taken with regard to the constitution of the Wild Life Advisory Boards and appointment of Wild Life Wardens. An affidavit in this regard shall be submitted by the respective states within a period of one month. It has to be ensured that while appointing Wild Life Wardens persons having an idea about the protection of wild life alone are appointed." Coram: S.C. Agrawal & G.T. Nanavati, JJ.
22.08.1997 in I.A.No.2	"A perusal of the Affidavits that have been filed on behalf of the States and the Union Territories shows that in some of the States Wild Life Advisory Boards have either not been constituted or were constituted earlier and after the expiry of the term of the Board, that was constituted, there has been no reconstitution of the Board. In the States in which Wild Life Advisory Board has not been constituted or where the Board had earlier been constituted but the term has expired and the Board has not been reconstituted, necessary steps should be taken to constitute/reconstitute the Wild Life Advisory Board within a period of two months. "As regards the appointment of Wild Life Wardens, we find that in some States Wild Life Wardens have not been appointed at all while in some states Wild Life Wardens have been appointed for some areas but have not been appointed for other areas. It is directed that the concerned State/ Union Territories shall take necessary steps to appoint Wild Life Wardens for all the areas within a period of two months. "Even though notifications in respect of sanctuaries/national parks have been issued under section 18/35 in all States/Union Territories, further proceedings as required under the Act i.e. issue of proclamation under section 21 and other steps as contemplated by the Act have not been taken. The concerned State Governments/Union Territories are directed to issue the proclamation under section 21 in respect of the sanctuaries/ national parks within two months and complete the process of determination of rights and acquisition of land or rights as contemplated by the Act within a period of one year." "As regards denotification of any area which is included in a sanctuary/ national park, it is directed that before placing the proposal before the Legislative Assembly the con-

Date	Extract of order passed
	cerned State Governments shall refer the proposal to the Indian Board for Wild Life for its opinion and the proposal shall be placed for consideration before the Legislative Assembly along with the opinion of the Indian Board for Wild Life. "In order to effectively control the growing increase of poaching in the sanctuaries/national parks the Central Government as well as the Governments of the States/Union Territories are directed to ensure that the forest guards in the sanctuaries/national parks are provided modern arms, communication facilities, viz. wireless sets and other necessary equipments in that regard. Necessary steps for that purpose shall be taken within six months." Coram: S.C. Agrawal & G.T. Nanavati, JJ.
7.11.1997 in I.A.No.2 (1998) 9SCC 623	"As regards the issuance of proclamation under Section 21 of the Act we find from the affidavits filed on behalf of the States that in event of the States such proclamation has not been issued in respect of the National Parks and Sanctuaries. The States Governments are directed to take the necessary steps in that regard. The same shall be done within two months failing which contempt proceedings will have to be initiated against the concerned State." Coram: S.C. Agrawal & G.T. Nanavati, JJ.
16.01.1998 in I.A.No.2 (1998) 9SCC 625	"Regarding issuance of proclamations under Section 21 of the Act, we find that the requisite steps for issuance of such proclamations have not been taken in large number of states." (Note: The Court thereafter considered in detail the state-by-state position regarding declaration of proclamations in various states, including: Andhra Pradesh, Arunachal Pradesh, Gujarat, Haryana, Karnataka, Manipur, Nagaland, Rajasthan, Tamil Nadu, Tripura, Uttarpradesh, West Bengal, Andaman and Nicobar, Chandigarh, Goa, Delhi, Lakshadweep, Daman & Diu. It further observed as follows.) "It would thus appear that in the States/ Union Territories referred to above proclamations under Section 21 have not been issued in respect of several National Parks and Sanctuaries. By our order dated August 22,1997 we had directed the concerned State Governments/ Union Territory Administration to issue the proclamation under Section 21 in respect of the Sanctuaries/National Parks within two months and complete the process of determination of rights and acquisition of land or rights as contemplated under the Act within a period of 1 year." "By our order dated November 7, 1997 further time of two months was granted to take step in that regard. It is a matter of regret that in spite of the aforesaid directions of this Court the State Governments and the Administration of the Union Territories referred to above have not taken the necessary steps for issuing the proclamation under Section 21 in respect of the National Parks/ Sanctuaries. Although, we had directed that in the event of failure to comply with the said directions contempt proceedings will have to be initiated against the concerned State Government/Union Territory Administration, we are giving a last opportunity to the concerned State Governments/Union Territory Administration to take steps to issue the requisite proclamation under Section 21 of the Act in respect of the National Parks/ Sanctuaries for which such proclamations is required to be issued under the Act within a period of six

Date	Extract of order passed
	weeks. It is, however, made clear that in the event of failure to comply with this direction contempt proceedings will be initiated against the person/persons responsible. The concerned States/ Union Territories shall file affidavits regarding compliance by March 16, 1998." Coram: S.C. Agrawal & A.P. Misra, JJ.
20.03.1998 in IA no. 2 (1998) 6SCC 483	"The affidavits that have been filed in pursuance of the directions given under the Order dated January 16, 1998 indicate that compliance with regard to the said direction in respect of issuance of proclamation under Section 21 of the Wild Life (Protection) Act, 1972 have been made by the States/ Union Territories of Andhra Pradesh, Arunachal Pradesh, Gujarat, Haryana, Rajasthan, Tripura, Uttar Pradesh, West Bengal, Andaman & Nicobar, Chandigarh, Delhi and Daman & Diu..... Nagaland: No affidavit has been filed on behalf of the State of Nagaland in pursuance of the direction given by this Court under the Order dated January 16, 1998. In the circumstance, it is directed that notices be issued to the Chief Secretary to the Government of Nagaland to show cause as to why contempt proceedings should not be initiated against him for non-compliance of the direction given by this Court." (The Court also examined the position in the States of Karnataka, Manipur, and Tamil Nadu, and gave them further time to issue the proclamations under Section 21.) Coram: S.C. Agrawal & S. Saghir Ahmad, JJ.
17.07.1998 (1999) 1SCC 263	(Regarding issuance of Proclamation: The Court examined the position regarding the four remaining states, namely Karnataka, Manipur, and Tamil Nadu, where proclamations under section 21 were still remaining to be issued. The Chief Secretary of Nagaland was present in Court and had also filed an affidavit. Accepting the explanation offered, the contempt notice against him was discharged. It directed that notice for initiating of contempt proceedings be issued to the Chief Secretary, of the State of Karnataka. It granted further time to Tamil Nadu to issue proclamations in some remaining sanctuaries.) "In our order dated 22-8-1997, it was directed that the State Governments/ Union Territories Administration concerned would complete the process of determination of rights and acquisition of rights as contemplated by the Act within a period of one year. In the affidavits that are to be filed in pursuance of the above-mentioned direction of this Court, the respective State Governments/ Union Territories Administration shall also indicate the present position with regard to the compliance with the aforesaid direction given by this Court. "By Order dated August 22, 1997 it was directed that in order to effectively control the growing menace of poaching in the Sanctuaries/ National Parks the Central Government as well as the State Governments/ Union Territory Administration should ensure that the forest guards in sanctuaries/national parks are provided modern arms, communication facilities viz. wireless sets and other necessary equipment in that regard within six months. The Central Government as well as the State Governments/ Union Territories Administration are directed to file affidavits indicating the steps taken by them in compliance with the aforesaid direction. The said affidavits shall be filed within four weeks." Coram: S.C. Agrawal, S. Saghir Ahmad, M. Srinivasan, JJ.

Date	Extract of order passed
9.10.1998 in IA No. 2	"A last opportunity is given to the Union of India and the States which have not filed an affidavit as yet to file such affidavit within four weeks. A copy to be supplied to the learned advocate for the petitioner. The matter shall be listed on a non-miscellaneous day before an appropriate Bench (not necessarily this Bench) after six weeks." Coram: S.P. Bharucha & V.N. Khare, JJ.
31.03.1999 1999 (3) SCALE 6	"On an earlier occasion too we have pointed out to counsel for the Union of India that the Wild Life Protection Act, 1972, was Union legislation. It was, therefore, imperative for the Central Government to establish a mechanism by which the Act could be effectively enforced. The affidavit dated 16th March, 1999, filed on behalf of the Union of India, among other things, states that the funds which are released by the Central Government are not utilized in time by the State Governments and that the funds do not reach the field agencies expeditiously. If there is a Central Legislation, we think that it is for the Centre to implement it. It cannot be that such legislations have to be implemented only by recourse to Article 32 before this Court. We now expect on the next occasion to hear that some scheme has been evolved by the Central Government in this behalf. Adjourned for eight weeks." Coram: S.P. Bharucha. R.C. Lahoti, JJ.
20.7.1999 in IA no. 11	"IA No. 11 is dismissed." Coram: S.P. Bharucha, R.C. Lahoti, N. Santosh Hegde, JJ.
13.11.2000 2000 SCALE PIL 325	"Pending further orders, no dereservation of forests/sanctuaries/national parks shall be effected." Coram: S.P. Bharucha, Doraiswamy Raju, Shivraj J. Patil, JJ.
9.05.2002 2002 SCALE PIL 174	"I. A. Nos. 15, 17, 20, 22, 23, 24 and 25 be first placed before the Standing Committee of the I.B.W.A. for its consideration. In the meantime, no permission under Section 29 of the Wild Life Act should be granted without getting the approval of the Standing Committee." Coram: CJI, Arijit Pasayat, H.K.Sema, JJ.
16.09.2002 in IA No. 25 2003 SCALE PIL 62	"I.A No.25 is allowed subject to the restrictions contained in the affidavit dated 24th August, 2002 of Shri. Aseem Srivastav, DIG (Wild Life), Ministry of Environment and Forest, the two restrictions being that (1) there will be no transfer of land for the next 50 years except by way of succession and (ii) there will be no change in the land use pattern. It is quite obvious that by reason of the second condition, land in question cannot be permitted to be converted into a resort. ... "It is made clear that the Standing Committee which has been constituted to give a report is entitled to proceed in the absence of the party concerned. However, it may give notice of hearing if so thought proper by it." Coram: CJI, K.G. Balakrishnan, Arijit Pasayat, JJ.
5.9.2003 in	"Under Section 5-A of the Wild-Life (Protection) Act, 1972, the Central Government was required to constitute National Board for Wild Life within three months from the

Date	Extract of order passed
IA No. 8,13,16,17, 19-24, 26-29, 39-32 2003 (7) SCALE 477	date of commencement of the Wild Life (Protection) Amendment Act,2002. The Prime Minister, as per Section 5-A, is the Chairperson of the National Board for Wild Life and the Minister in-charge of Forests and Wild Life is the Chairperson. The date of the commencement of the Amendment Act is 1st April, 2003. Three months time statutorily fixed expired on 1st July, 2003. It is unfortunate that for constitution of such a Board of which Prime Minister of the country is the Chairperson and where a statutory provision fixes a mandatory period, orders have to be passed directing the Central Government to comply with its obligation. Now, we are told that about a day or two earlier, the said Board has been constituted. Under Section 5-B of the Act, the National Board for Wild Life is required to constitute a Standing Committee for the purpose of exercising such powers and perform such duties as may be delegated to the Committee by the National Board. Under Sub-Section 5-B, the National Board is empowered to constitute committees, sub-committees or study groups, as may be necessary, from time to time in proper discharge of the functions assigned to it. Mr. A.D.N. Rao, learned counsel, states that the first meeting to the National Board has been fixed for 15th October,2003 and, on instructions, further states the learned counsel, it is very difficult to advance the said date. The result is that as of now, there is neither a standing Committee nor any other committee. Meanwhile, certain urgent applications are pending on which the expert views are necessary to be obtained." Coram: Y.K. Sabharwal, B.N. Agrawal, JJ.
9.2.2004 in IA No. 16	"We see no ground to allow the application and delete the word 'forests' from the order dated 13th November 2000. The application is accordingly dismissed." Coram: Y.K.Sabharwal, B.N. Agarwal, JJ.
26.07.2005 In IA No. 2	"Mr. Raj Panjwani, learned counsel, has drawn our attention to the order passed by this Court on 22nd August, 1997 whereby the State Governments and Union Territories were directed to issue proclamation under Section 21 of the Wild Life (Protection) Act in respect of sanctuaries/National parks within two months and complete the process of determination of rights and acquisition of land or rights as contemplated by the Act within a period of one year. The learned Counsel submits that for some time after passing of the said order, some of the State Governments had been filing affidavits regarding the action taken in terms of the said order but they have now stopped filing the affidavits, the result whereof is that it is not known as to what further steps have been taken for completing the process of determination of rights and acquisition of land or rights as contemplated by the Act in terms of the said order. Let Mr. Raj Panjwani, learned counsel, prepare a brief note placing on record up-to-date position and file it a week before the next date of hearing, which would be considered on the next date of hearing." Coram: Y.K. Sabharwal, Arun Kumar, B.N. Srikrishna, JJ.

Date	Extract of order passed
23.11.2005 in I.A.No.2	"On 22nd August, 1997, this Court after noticing that even though notifications in respect of sanctuaries/national parks have been issued under section 18/35 in all States/Union Territories, further proceedings as required under the Act i.e. issue of proclamation under section 21 and other steps as contemplated by the Act have not been taken, and thus all the State Governments/Union Territories were directed to issue the proclamation under Section 21 in respect of the sanctuaries/national parks within two months. It was further directed that the process of determination of rights and acquisition of land or rights as contemplated by the Act shall be completed within a period of one year. Mr. Panjwani states that though proclamations under section 21 were issued, but it appears that the process of determination of rights and acquisition of land or rights as contemplated by the Act still remains to be completed by many State Governments/Union Territories despite lapse of nearly seven years, having regard to the time granted in the order dated 22nd August, 1997. Learned counsel has taken us through various provisions of the Wild Life (Protection) Act in relation to obligation of completing the process of determination, as directed by this Court. Under these circumstances, we direct the State Governments/Union Territories to file affidavits, placing on record, the status as existing on 1st November, 2005 in relation to compliance of the aforesaid direction. This order be communicated to the State Governments/Union Territories, through Chief Secretaries, and status report be filed within four weeks of the receipt of a copy of this order." Coram: The Chief Justice of India (Mr. Y.K. Sabharwal) with Mr. C.K. Thakker and Mr. P.K. Balasubramanyan, JJ.
29.8.2006 IN I.A. No.2	"The matter of completing the process of determination of rights and acquisition of land or right as contemplated by the Act in respect of some of the National Parks and Wildlife Sanctuaries has still not been completed despite lapse of so many years. Mr. Raj Panjwani, learned counsel, points out that it has not been completed in 14 out of 85 National Parks and 170 out of 494 Wildlife Sanctuaries, as per the affidavits placed by the State Government on record. By order dated 23rd November, 2005, we directed that the State Governments/Union Territories to file affidavits placing on record the status as existing on 1st November, 2005. In relation to the compliance of the aforesaid directions, the Registry has reported that no response has been filed on behalf of the States of Andhra Pradesh, Arunachal Pradesh, Gujarat, Bihar, Maharashtra, Chattisgarh, West Bengal, Haryana, Himachal Pradesh, Jammu and Kashmir, Jharkhand, Kerala, Manipur, Sikkim, Mizoram, Nagaland, Orissa, Rajasthan, Tamil Nadu, Tripura, Uttar Pradesh and Uttaranchal and Union Territories of Daman and Diu, Dadra Nagar Haveli, Lakshwadweep and Pondicherry. Despite lapse of more than nine months, the status report has not been filed by the afore-noted States/Union Territories. We grant last opportunity and direct the Chief Secretaries to personally look into the matter and file their own affidavits in terms of order dated 23rd November, 2005, within four weeks of the receipt of the copy of this order. It would be the personal responsibility of the Chief Secretaries to comply with this order. In respect of Kaziranga National Park, Mr. A.D.N. Rao, learned counsel states that he will check up and find out whether special leave petition has been filed or not and, if not filed, why there is delay and ensure its filing without further delay.

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	Mr. Raj Panjwani, learned counsel, points out that the State of Madhya Pradesh in one National Park and four Wildlife Sanctuaries has reduced area by twenty five per cent to fifty per cent. The Central Government was directed to file its response to this aspect. In this regard, reference is made to the affidavit at Page 2057 of Volume VII dated 29th September, 2000. As prayed, the Central Government is granted four weeks' time to file its response." Coram: The Chief Justice of India (Mr. Y.K. Sabharwal) with Mr. C.K. Thakker and Mr. P.K. Balasubramanyan, JJ.
17.10.2006	"A perusal of the office report shows that various State Governments and on various interlocutory applications, the Ministry of Environment and Forests have not filed their responses. This is also applicable to Interlocutory Application No.2 in relation to completing the process of determination of rights and acquisition of land or rights as contemplated by the Act in respect of some of the National Parks and Wildlife Sanctuaries, as noted in detail in the order dated 29th August, 2006. In case, responses to this and other applications are not filed within three weeks from today, this Court will proceed to hear the matters assuming that no response is required to be filed." Coram: The Chief Justice of India (Mr. Y.K. Sabharwal) with Mr. C.K. Thakker and Mr. R.V. Raveendran, JJ.
11.1.2007	"Mr. Raj Panjwani, learned counsel, has drawn our attention to the affidavit filed on 20th November, 2006, by Principal Chief Conservator of Forests (Wildlife), Government of Maharashtra, wherein for issue of final notification for the entire area, the reasons for delay are mentioned as under: - i] Want of consent of the people for rehabilitation outside protected areas; - ii] Identification of the sites for rehabilitation with the consent of the people; - iii] The process involved in preparation of proposals for diversion for forest land identified for the relocation; and - iv] Availability of funds for the rehabilitation. Mr. Panjwani further states that the aforesaid difficulties pointed out by the State of Maharashtra may be referred to the National Board for Wildlife for seeking their opinion in the matter. Learned counsel points out that some other State Governments have also expressed one or more of the aforesaid reasons pointed by the State of Maharashtra and that he will make a chart and assist the court on the next date of hearing so that further reference can be made to the National Board for Wildlife in respect of those States as well. For the present, we refer the reasons for delay pointed out by the State of Maharashtra, as afore-noted, for the National Board for Wildlife and direct them to send their report within six weeks." Coram: The Chief Justice of India (Mr. Y.K. Sabharwal) with Mr. C.K. Thakker and Mr. R.V. Raveendran, JJ.
25.4.2007 in IA No. 65	"The State of Maharashtra has filed the present application seeking permission to lay down the pipeline in a part of the Pench NationalPark/Tiger Reserve of a length of about 2.8 k.m. Relating to Sagar Nalla Minor Irrigation Project, using about 1.48

Date	Extract of order passed
	hectares. The total area of the Pench National Park is 25512.192 ha. and the interference in the National Park would be only to an extent of less than 0.01%. The Ministry of Environment and Forests has raised some objections stating that the laying of the pipeline would cause disruption to the animal movement and reduction in habitat quality and would cause damage to the ecological features of the National Park. We had requested the National Board for Wildlife to give their response but we are told that the National Board for Wildlife has not so far been constituted. Learned counsel for the petitioner submitted that this project is part of a minor irrigation project for giving supply of water to the agriculturists in Nagpur district who are badly in need of the water. It is also submitted that there was large scale scarcity of water and some farmers have committed suicides as a result of failure of rains and non-availability of water for agricultural activities. Under the above circumstances, we grant permission to the concerned authorities of the State of Maharashtra lay down the pipeline through the Pench National Park subject to the condition that they shall cause the minimum disturbance to the ecological features or to the animal movement in the national park while laying the pipeline. They may also enter the National park as and when any repair work is required. They shall also furnish the details of the work to the Director, Pench National Park, beforehand so that he can cooperate with the project. It is also made clear that they shall not use more than 1.48 ha. of land from the Pench National Park for this purpose. I.A.No.65 is allowed to the extent indicated above." Coram : The Chief Justice of India (Mr. K.G. Balakrishnan) with Mr. R.V. Raveendran and Mr. D.K. Jain, JJ.
18.7.2007 in IA No. 2	"The National Board for Wildlife represented through its Member Secretary is made as a suo motu respondent. The copies of the relevant papers may be served on the Member Secretary. As regards the pending matters, the views of the National Board for Wildlife could be of immense importance. As directed by this Court's orders dated 17.10.2006 and 11.1.2007, some of the States namely, Andhra Pradesh, West Bengal, Jharkhand, Manipur, Nagaland and Uttaranchal have not filed their responses so far. These States may file their response at the earliest." Coram: The Chief Justice of India (Mr. K.G. Balakrishnan) with Mr. R.V. Raveendran and Mr. Dalveer Bhandari, JJ.
14.11.2007	"IA No. 2: The State Governments have issued several notifications declaring their intention to constitute sanctuaries in certain areas under Section 18 of the Wild Life (Protection) Act, 1972. But we are informed that final declarations have not been made under Section 26A of the Act declaring such areas as sanctuaries. Before making such final declaration, the Act contemplates several acts such as issuing proclamations (Section 21), inquiry by Collector and admission or rejection of claims (Sections 22

Date	Extract of order passed
	to 24) and acquisition of lands/rights (Section 25 and 25A). The question of rehabilitation of large number of people residing within the Sanctuaries is also a serious issue to be tackled before a final declaration is made under Section 26A of the Act. The State Governments have referred to various problems and the lack of sufficient funds for implementing the provisions and have sought allocation of funds from the Union Government. We feel that this question may also be examined by the National Board for Wild Life ('NBWL' for short), headed by the Prime Minister. The Director of Wild Life Preservation, who is the Member Secretary of the National Board for Wild Life is directed to file a Report before this Court within eight weeks about the action to be taken for completing the requirements of Chapter IV of the Act. The State Government may also endeavour to complete the proceedings under Section 24 of the Act, without delay. ... IA Nos.43 to 45, 81 and 99 : The applicant Swamy Shankardas claims to be the disciple of one 'Tat Wale Baba'. He has alleged that nine natural caves in area No.4, Vidasini, Gotri Range, in Rajaji National Park, collectively called as 'Bhootnath Gufa' was used by Tat Wale Baba and later by his disciples including the applicant for leading their life of meditation and yoga. The said caves also contain the Samadhi of Tat Wale Baba. The said caves were sealed on 29.11.2003, to prevent non-forest activities. The prayer in the application is to permit the applicant to have access to the Samadhi and permit him to stay in the caves and maintain the Samadhi and perform routine poojas. According to the State of Uttaranchal and the Ministry of Environment and Forests, the caves - 'Bhootnath Gufa' are situated within the Rajaji National Park, to which the provisions of the Wild Life (Protection) Act, 1972 applies. It is also alleged that the applicant erected certain structures within the case and has been holding Bhandara for the visitors. It is stated that the caves have been attracting a large number of visitors and the non-forest activities interfere with nature wild life and pose a threat to the National Park. It is contended that the applicant was in illegal possession and as the encroached area has been restored to the National park, the Standing Committee has rejected his applications. Section 27 of the Wild Life (Protection) Act, 1972 provides that no person (other than those mentioned therein) shall enter or reside in the sanctuary except under and in accordance with the conditions of a permit granted under Section 28. Section 30 of the Act provides that no person shall set fire to a sanctuary, or kindle fire, or leave any fire burning in a sanctuary, in such a manner as to endanger such sanctuary. Section 33 provides that the Chief Wild Life Warden shall be the authority who shall control, manage and maintain the sanctuary. The learned counsel for the applicant submitted that the applicant has been enjoying certain rights prior to the declaration of the area as Wild Life Sanctuary and has been living as one with nature and has no other abode. Any right or privilege claimed by the applicant has to be determined in accordance with the provisions of the Act. Section 22 provides for inquiry by Collector into any claim and Section 24 relates to

Date	Extract of order passed
	acquisition of rights as per orders passed by the Collector. The applicant would, therefore, be at liberty to make an application under the Act for admission of the rights and privileges claimed by him to enter the sanctuary or to do or perform any act within the sanctuary. The authority may also consider whether the caves which have been sealed, should be opened for giving access to the applicant, in accordance with the provisions of the Act. IAs. 43-45, 81 and 89 are disposed of accordingly. IA No.54 : The State of Maharashtra proposes to regularize the 'Eksali' leases of adivasis in respect of an extent of 707.64 hectares of land within Kalsubai H. Sanctuary and Great Indian Bustard Sanctuary. The report of CEC has been received. We direct the State Government to submit a proposal in this regard to the National Board for Wild Life along with the Opinion of the Chief Wild Life Warden, Maharashtra within two weeks. NBWL may examine the same and submit a report within a period of 8 weeks thereafter. ..." Coram: Chief Justice of India (Mr. KG. Balakrishnan) with Mr. R.V. Raveendran and Mr. J.M. Panchal, JJ.

Appendix D:
Status of Settlement of Rights in protected areas as submitted by counsel for
petitioners, Mr. Raj Panjwani, to the Court in Writ Petition 337/95

Number of National Parks/Status	Number of Sanctuaries/ Status	Remarks
<u>Andhra Pradesh</u>		
4 No averment (23.9.98) (proceedings pending)	21 No averment (23.9.98) proceeding pending	Final Notification issued in 3 National Parks and 20 Wildlife Sanctuaries Proceeding pending in 1 National Park & Wildlife Sanctuary (2463)
<u>Arunachal Pradesh</u> Pg. No.824(ii), 887(iii) 1128 (iv), 1292 (iv), 1786(v), 2273(vii)		
2 Proceedings completed. Notification to be issued	10 In one proceeding pending (1789)	2 Wildlife Sanctuary proceedings are pending; Final shortly (2274).
<u>Assam</u> Pg. No. 686(ii), 912(iii), 1003(iii), 16228(iv), 1912 (vi), 2342(vii)		
3 Final Notification issued (1629)	13 In 3-proceeding pending (1630)	Proceedings pending in 3 Wildlife Sanctuary (2349)
<u>Bihar</u> Pg. No. 522(ii), 962 (iii), 1018(iii), 1805(v) 1983(vi), 2317(vii)		
2 Proceedings completed (1811)	21 Enquiry completed in 5 Wildlife Sanctuary Enquiry not required in 11 Wild Sanctuary as forest area. Proceedings pending in 16 WS (1812)	Officers requested to expedite the completion (2322).
<u>Chattisgarh</u> Pg. 2572(viii)		
3	11	Adopts the Affidavit filed by the State of M.P. Chattisgarh established w.e.f. 1.11.2000.
<u>Goa</u> Pg. No.522(ii), 962(ii), 1018(iii), 1805(v), 1983(vi), 2317(viii)		
1. Proceedings pending	4 In 3 proceeding pending in 1 final Notification issued (1736) and (1979)	State Govt. needs funds and shall approach the Central Govt. (2391) same position (2420)
<u>Gujarat</u> Pg. No.466(1), 904(ii), 943(iii), 1209(iv), 1497(iv), 2199(vii)		
4 In one proceeding pending (1499)	21 In 12 proceeding pending (1499)	"Work on Settlement of Protected Areas is proceeding at a rapid

Number of National Parks/Status	Number of Sanctuaries/Status	Remarks
	4-Reserve forest area (1211) 2-Settlement process completed (1211) 3- nothing mentioned.	pace" Bald statement. (2201)
Haryana Pg.No.253(i), 851(ii), 921(iii) 989(iii), 1203(iii), 1256(iii), 1288(iv), 1605(v), 1873(vi), 2306(vii)		
1 proceeding completed	9 In 4 proceeding pending. There is a proposal to de notify 2 out of 4 W.S. (1873)	Rights in all National Parks and sanctuaries settled (2311)
Himachal Pradesh Pg. No. 845(iii), 983(iii), 1008(iii), 1548(v), 1928(vi), 2027(vi), 2327(vii)		
2 proceedings pending 2029	32 Final Notification: for 23 Notification issued. For 4 under the previous 1933 Act. Final proceeding in 5 under process seeks 1 year time.	Final Notification issued in 1 National Park and 28 Wildlife Sanctuaries. Proceeding pending in 1 National Park and 4 Wildlife Sanctuaries (2330)
Jammu Kashmir Pg. NO. 750(ii), 1902(vi), 2031(vi) Application 2413(viii)		
4 Proceedings are pending Assures that it will be completed shortly (1903)	14 Proceedings are pending. Assures that it will be completed shortly. (1903)	Status as before (2415)
Karnataka Pg. 27(i), 1261(iii), 1749(v) Report Sr. No. 8(vi-A) I.A. NO. 8 (vi-A), 2276(vii)		
5 In 4 proceedings are pending. In 1 (Nagarhole National Park) Final Notification of 571.55 sq. Km. issued in 1983 remaining 71.84 sq. kms. proceeding pending (1767)	21 In 17 final notification issued. In 1 (Daroji Bear Sanctuary) proceeding pending. In 3 Bird Sanctuaries proceedings pending (1767)	Final Notification issued in 21 Wildlife Sanctuaries; position in 5 of the Sanctuaries is the same (2276)
Kerala Pg. 835(ii), 1486(iii), 1895(vi), 2457(viii)		
2 Proceeding completed	12 Proceeding completed	Proceeding completed (2459)

Number of National Parks/Status	Number of Sanctuaries/Status	Remarks
<u>Madhya Pradesh</u> Pg. 166(1), 633(ii), 1401(iv), 1567(v), 1597 I.A) (v), 1778(v), 1939(vi) 2040(vii)		
11 Proceeding in 7 pending (1960)	35 Proceeding in 14 pending (1960)	2 National Parks and 3 Wildlife Sanctuaries notified; Proceeding completed and final notification issued in 3 National Park and 14 Wildlife Sanctuaries. 2 National Parks partially notified (Settlement of area added subsequently pending). 1 National Park and 4 Wildlife Sanctuaries have reduced the total area by 25% to 50%. Opinion of the Central Govt. awaited (2057).
<u>Maharashtra</u> Pg. 251(i), 928(iii), 1416(iv), 1861(vi), 1880(vi), 2238 (vii)		
5 In 3 proceeding pending (1861)	33 In 30 proceeding pending (1861-62)	Efforts are being made to expedite settlement of rights (2245)
<u>Manipur</u> Pg. 707(ii) 711(ii), 841(iii), 1490(iv), 1926(vi), Serial No. 9(vi-A), 2203(vii)		
2 In one proceeding pending.	3 In 3 proceeding pending.	Relocation not possible as land is not available (2209)
<u>Meghalaya</u> Pg. 379(i), 1295(iv), 1540(v), Serial No. 2 (vi-A), 2411(viii)		
2 Proceedings pending	3 Proceedings completed	Status as before (2412)
<u>Mizoram</u> Pg. 331(i), 855(iii), 940(iii), 1610(V) 197 (vi) 2150(vii)		
2 In one proceedings completed but final award awaited (1611)	3 In Tawipui Wildlife Sanctuary proceedings pending (1611) In Khawlung Wildlife Sanctuary final award for compensation of Rs. 4,85,765/- made; not paid due to paucity of funds (1611).	Final notification issued with respect to one tiger reserve, on wild life sanctuary and one National Park. Proceedings pending with respect to one National Park and two Wildlife Sanctuaries. (2150)

Number of National Parks/Status	Number of Sanctuaries/Status	Remarks
	Murlen National Park Rs. 92 lakhs are required for determination of rights money not available Seeks time (1972)	
<u>Nagaland</u> Pg. 560(ii), Serial No. 6(viA), 2400 (viii)		
1 Forest Land {Serial No.6 (vi-A)}	2 Forest land {Serial No.6 (vi-A)}	Status as before.
<u>Orissa</u>		
2 In one proceeding pending (1812)	18 In 16 proceedings pending (1819-1826)	Final settlement getting delayed due to lack of funds (2120)
<u>Punjab</u> Pg.162(i), 175(i), 1031(iii), 1073(iii), 1284(iv), 1546(v), 1546(v), 1936(vi), 2002(vi), 2217(vii), 2486(viii), 2570(viii), 2580(viii)		
None	10 7- Sanctuaries settlement completed. 1- Final Notification issued. 2- Proceedings pending (2009)	Final Notification issued in 10 Wildlife Sanctuaries - Abohar declared as Sanctuary for 5 years and peoples rights allowed except for hunting (2234)
<u>Rajasthan</u> Pg.697(ii), 1122(iii), 1503(v), 1515(v) Affidavit filed 24.9.98 (vi-A Serial No.5) 1998 (vi), 2248(vii)		
2 Proceeding completed.	25 Proceeding pending in Wildlife Sanct. (1988)	Relocation package for 4 villages in Ranthambore and 11 villages in Sariska have been sent to Central Govt. (2255)
<u>Sikkim</u> Pg. 266(i), 605(ii), 839 (ii), 1075(iii), 1278(iii), 1342(iv), 1791(v)		
1 Proceeding completed.	4 Proceedings pending. In one 2.5 acres of Wildlife Sanct./reserve forest excluded by Collector (1802)	Khaziranga national park -compensation for 30 acres of land submitted to MOEF for consideration (2144)

Number of National Parks/Status	Number of Sanctuaries/Status	Remarks
<u>Tamilnadu</u> Pg. 258(i), 901(iii), 1010(iii), 1250(iii), 1471(iv), 1841(vi), 2213(vii)		
5 In 1 proceeding pending.	17 In 12 proceeding pending (1845)	No averment (2213)
<u>Tripura</u> Pg. 187(I), 891(III), ,1129 (III), 1418(IV), 1888(VI), 2260(VII)		
None	4 proceedings pending	Progress held up due to (1891) lack of funds (2271)
<u>Uttar Pradesh</u> Pg. 348(1), 902(iii), 1051(iii), 1481(iv), 1919(vi), 1999(vi), 2124(vii)		
7 Affidavit silent on present status seeks time to issue final Notification (1920)	29 Affidavit is silent on present status. Seeks time to issue final Notification (1920)	State Govt. decided that private land within Sanctuaries will not be acquired and people will not be relocated. National Parks relocation will be done as soon as possible (2128)
<u>West Bengal</u> Pg. 415(i), 994(iii), 1196(iii), 1377(iv), 1700(v), 2333(vii)		
5 Proceeding completed (1702)	15 Proceeding in two pending (1702)	Settlement completed in all (2340)
<u>Andaman and Nicobar</u> Pg. 501(ii), 111(i), 1376(iv), 1495(iv), 1621 (v), 1969 (vi) 2384(viii)		
9 Proceeding completed 501, 1495)	95 proceeding completed (502, 1112, 1495)	Sought time to file particulars (2384)
<u>Chandigarh</u> Pg. 675(ii), 898(iii), 1245(iii), 1387(iv), 1745(v), 1911(vi), 2312(vii)		
Nil Final Notification issued.	2 2-Wildlife Sanctuaries.	Final notification issued (2315)
<u>Daman & Diu</u> Pg. 1368(iv), 1531(1A)(v) 1554(v), 2011(vi), 2354(vii)		
None	1 proclamation under section 21 issued (2011)	Proceeding pending in 1 Wildlife Sanctuary. (2356)

Number of National Parks/Status	Number of Sanctuaries/Status	Remarks
Delhi Pg. 400(i), 950(iii), 1271(iii), 1354(iv), 1900(vi), 2397(viii)		
None	1 proceeding pending.	1 Wildlife Sanctuary. Final Notification not issued (2399)
Lakshwadweep -791(ii), 1619(v)		
None	1 proceeding pending	----

Source: Physical inspection of Court record in Writ Petition (C) 337/ 1995.

APPENDIX E

Summary of contents of affidavits filed by various State governments in Writ Petition (C) 337/95

ANDAMAN AND NICOBAR Affidavit dated 13.7.2006	Details regarding the issuance of final notification under Section 35 for National Parks and settlement of rights / issuance of final notification for Sanctuaries supplied by the State in a separate chart annexed to the affidavit.
ANDHRA PRADESH Affidavit dated 28.3.2001	• There are 4 National Parks and 21 Sanctuaries in the State. • Final Notifications have been issued in respect of three 3 National Parks and 20 Sanctuaries.
ARUNACHAL PRADESH Affidavits dated 16.2.2001 and 2.11.06	Affidavit dated 16.2.2001: • Settlement of Rights in respect of Yordi Rube Supse Wild Life Sanctuary and Kane Wild Life Sanctuary in the State has almost been completed and the final notification shall be issued shortly. • There is no case pending before the State Government for relocation of people outside the Wild Life Sanctuary. Affidavit dated 02.11.06 • Determination of rights in respect of all National Parks and Sanctuaries as on 01.11.2005 has been settled except the 23 Sq. Kms of unclassified State forest of Sessa Orchid Sanctuary.
ASSAM Affidavits dated 2.3.2001 and 23.1.2006	Affidavit dated 2.3.2001: Settlement of rights is pending only in respect of three sanctuaries and the same is under process. These Sanctuaries have been notified recently. Relocation of a few villages is required for three other sanctuaries for which alternative land is being located.

Affidavit dated 23.1.2006:

- State of Assam has 5 National Parks and 17 Sanctuaries.
- Six areas adjoining Kaziranga National Park were notified under Section 18 of the Wildlife (Protection) Act, 1972, with the intention of declaring these areas as part of Kaziranga National Park. The said areas were named as areas No. 1st, 2nd, 3rd, 4th, 5th, and 6th Addition to the Kaziranga National Park.
- Final notifications under Section 26A have been issued for the 1st, 4th and 6th additions to the Kaziranga National Park.
- With regard to the notification for the area under 2nd, 3rd, and 5th Additions, the State has provided the following details:

2nd Addition to Kaziranga National Park:

The Government had started the process of demarcation of boundaries and acquisition of land and the Forest Department had paid a total sum of Rs.12,13,638/-to the Revenue Department, as acquisition cost of the private lands for payment to Patta holders. However, the process got delayed when a writ petition was filed in the Hon'ble Gauhati High Court, by an Organization called "Sanmilita Ganna Adhikar Surakhya Samity". The Hon'ble High Court passed an interim order dated August 30, 1996 and gave a direction to maintain status quo. Thereafter, the Hon'ble Court, vide order dated 29th June 1999, rejected the petition and vacated the stay order. On receipt of the Hon'ble Court's order the process of demarcation of the boundaries and acquisition of the land was started again.

Against the order of the Hon'ble High Court dated 29th June 1999, the organisation "Sanmilita Ganna Adhikar Surakhya Samity" filed an appeal, and the Division Bench of the High Court vide order dated November 11th 2002 directed the State Government not to disturb the possession of the land owners and to initiate de-novo determination of rights and claims according to the provisions of Wild Life (Protection) Act 1972.

An Application No. 179 dated June 20th 2003 was filed before the Central Empowered Committee, by Mrs. Belinda Wright, Executive Director, Wild Life Protection Society of India praying for necessary orders for expediting the issuance of final notification for the 2nd, 3rd and 5th Additions to the Kaziranga National Park. The Central Empowered Committee vide its letter No. 1-5/CEC/Part-II/2003 dated 5th January 2004, advised the Secretary, Ministry of Environment and Forest to consider filing of an SLP in the Supreme Court against the Hon'ble Gauahati High Court's order dated November 11, 2002.

The State has not initiated the de-novo determination of rights and claims of the prospective claimant as directed by the Hon'ble Gauahati High Court, as it is of the opinion that it will further delay payment of compensation and issuance of proclamation. The State Government intends supporting the Ministry of Environment and Forest in filing an appeal against the directions of the Hon'ble Gauahati High Court in the Hon'ble Supreme Court as advised by CEC.

3rd Addition to Kaziranga National Park

The preliminary notification under Section 18 was issued for an area of 69.76 ha. vide notification dated 31st May 1998. The proclamation was issued by the Collector and on the basis of the report submitted by the Collector, the DFO Eastern Assam Wildlife Division Bohakahat had paid

acquisition cost of Rs. 13,27,746/- (Rs. 12,45,161/- + Rs. 82,585/-) to the Sub Divisional Officer (Civil) Bohakahat in two installments of Rs. 8,50,000/- and Rs. 4,77,746/- respectively in December 1998. The determination of rights has been completed and the process of issuance of final notification is underway.

5th Addition to Kaziranga National Park

The preliminary notification for an area of 115.36 ha. was issued vide notification dated 13th June 1985. The proclamation under Section 21 was issued by the Collector on 2nd August 1985 and after completion of the hearings the Collector submitted his report. Based on the report of the Collector, first installment of Rs. 4 lakhs was sanctioned for land acquisition purpose in favour of Deputy Commissioner Golaghat, on March 30, 1990. Second installment of Rs. 4,71,000/- was sanctioned in favour of the Deputy Commissioner on December 31st 1996. The balance amount of Rs. 5,20,357/- was finally sanctioned to the Sub Divisional Officer (Civil) on November 3rd 1998.

The determination of rights has been completed and the process for issuance of final notification is under way.

- In addition to the above mentioned Additions to the Kaziranga National Park, the State of Assam has issued Preliminary Notification for declaring three more sanctuaries namely Bordoibam Beelmukh Sanctuary, Deepar Beel Bird Sanctuary, North Karbi Anglong Wild Life Sanctuary. The status with regard to the proposals is given in the subsequent paragraphs.

Bordoibam, Beelmukkh Sanctuaries

The preliminary notification for the proposed Bordoibam, Beelmukkh Sanctuaries comprising an area of 1124.78 Ha, in the District of Lakhimpur and Dehmaji was published vide notification No.FRW-15. 96/3 dated July 3, 1996. The proclamation under Section 21 of the Act was published by the Collector for Lakhimpur District on November 6, 1997 and by the Collector for the Dhemaji District on May 28, 1997. After the completion of the hearing, the Deputy Commissioner Lakhimpur submitted his report to the Government on September 6, 2000, recommending an area of 14.13 Ha under Lakhimpur District for Wild life Sanctuary. The Deputy Commissioner of Dhemaji submitted his report to the Government of Assam on February 28, 2002 recommending an area of 1106.21 Ha falling under the Dhemaji District for declaration as Wildlife Sanctuary.

The above stated areas have already been demarcated on the ground and the boundary descriptions are being finalized.

Deepar Beel Wildlife Sanctuary

The preliminary notification for the proposed Deeper Beel Wildlife Sanctuary comprising of an area of 414 Ha, was issued vide Notification No. FRW -1/80/26 dated January 12, 1989. The Collector after conducting the necessary hearings submitted his Report to the Government of Assam in 1994. In the report, the Collector had stated that the declaration of the said area as Sanctuary would affect the livelihood of 400 families belonging to the SC community who do not have any other source of income except fishing in the Deeper Beel area and as such it will not be proper to declare the area as Sanctuary. In view of the

	above said report, the Principal Secretary to the Government of Assam Forest Department passed an order vide Memo No. FRW. 1/89/397 dated May 29,2002 rescinding the draft notification for constituting the sanctuary. However, after heavy pressure put by the environmentalist group, the Govt. of Assam withdrew the rescinding order dated May 2002, vide notification No. FRW.1/89/399 dated August 17,2002 and restored the Preliminary Notification. Thus the Supreme Court's order dated August 22nd 1997 has already been complied with, as the Collector has submitted his report recommending not to declare Deeper Beel Area as Wildlife Sanctuary, without making alternative arrangements for livelihood of the 400 families dependent on the Beel. Thereafter the District of Kamrup, where the Deeper Beel is located has been bifurcated into two District, viz. Kamrup (Metro) and Kamrup (Rural) Districts and accordingly the Government, on January 5, 2006 has specially appointed the Additional Deputy Commissioner (Revenue), Kamrup (Metro) District as the Collector to inquire into and determine the existence, nature and extent of rights. (emphasis supplied). North Karbhi Anglong Wildlife Sanctuary The preliminary notification for the proposed North Karbhi Anglong Wildlife Sanctuary comprising an area of 96.00 sq. kilometers was issued vide notification No. FRW.57/99/42 dated July 21st 2000. The Secretary In charge of Revenue Karbhi Anglong Autonomous Council was appointed to determine the rights and claims etc. But due to the prevailing law and order situation in the District, the Collector reportedly has not been able to determine and settle the rights, if any, over the land constituting the proposed sanctuary. However, the date of hearing is now fixed on Feb 3, 2006.
BIHAR Affidavit dated 24.2.2001:	Affidavit dated 24.2.2001: • Enquiry completed in 5 Wildlife Sanctuaries. While enquiry is not required in 11 Wildlife Sanctuaries as forest area, proceedings are pending in 16. • The Central Govt. is providing Rs. 35 Cr. to the State Government for Settlement of rights and relocation of the people outside the protected areas. The District Collector and other concerned officers have been asked to expedite the completion of the process of settlement.
CHANDIGARH Affidavits dated 23.2.2001 and 12.12.2005	• There are two sanctuaries in the Union Territory of Chandigarh i.e. Sukhna Wildlife Sanctuary and Chandigarh City Bird Sanctuary. The process of determination of rights and acquisition of land or rights as contemplated by the Act, in respect of both the sanctuaries have been completed. • Final notification under Section 26A of the Wild Life (Protection) Act 1972 for declaring area as Sukhna Wild Life Sanctuary and Chandigarh City Bird Sanctuary has already been issued on 6.3.1998 and 3.9.1998 respectively.
CHATTISGARH	Author's Note: Access to the affidavits filed by the State of Chattisgarh could not be obtained.
DADRA AND NAGAR HAVELI Affidavit dated	• An area of 92 sq. km in the Union Territory of Dadra & Nagar Haveli has been declared as Wild Life Sanctuaries. The said area was already declared as Reserve Forest in the year 1969 under relevant

13.3.01	provisions of Indian Forest Act, 1927. As such there are no issues related to Settlement of Rights except finalization of teram plots given on lease basis prior to 1980. • In order to give compensation to tribal villages the MoEF has been requested to provide a sum of approximately Rs. 5 crores, so that cultivators finally leave the forest area. • There are also private malki lands in the aforesaid sanctuaries area and an amount of Rs. 12 crores shall be required to dislocate them. Necessary request in this respect shall be made to Central Government for a grant to provide for funds for compensation.
DAMAN AND DIU Affidavit dated 20.8.1999 and 5.3.2001	Affidavit dated 20.8.1999: • Proclamation u/s 21 of the Wild Protection Act has been issued vide notification No. 3-92-98 ADM-11615 dated 21.2.98. • The Collector, Daman & Diu submitted report No. 36-93-98/ADM/582 dated 17.7.99 wherein, he mentioned 4 important points of contention which may pose difficulty if the Final Notification under section 26 (A) of Wild Life (Protection) Act 1972 is done: (1) It is not possible to establish the timing and number of persons and number of boats, which should pass through sanctuaries since the traditional fisherman using small canals would like to come and go as per their convenience and regulating the same will be impossible. (2) There is a proposal to establish Air Force Base at Diu and another proposal for damming of two bridges to create sweet water body in Diu, which would require additional land. (3) Diu is a very tiny island of 39 Sq. Km. Approximately 25% of the land mass is marshy. A major belt along the coast and the creek cannot be developed due to applicability of CRZ Regulation. ASI restriction of no development around its monument is another restriction on any development. Approximately 5 Sq. Km. is proposed reserved forest area. Approved Regional plan of Diu allows development in very limited settlement and tourism zones. People of Diu are hardly left with any land for habitat requirement. It has led to a situation that they are facing actual shortage of living space. Further restriction by way of declaring Fudam Creek as Bird Sanctuaries may lead to total stagnation of future developments, more so when this area is surrounded by Municipal area on two sides. People are already protesting against the proposed declaration. It may have adverse effect on the general psyche of the people, who culturally have been very eco-friendly. • Taking into consideration the reports given by the Collector, it is not feasible to notify the sanctuary under section 26(A) of Wild Life (Protection) Act 1972 as it may lead to complications not only in managing the proposed sanctuary, but also for safety of human lives and further development of Union Territory of Daman & Diu as the total geographical area of Diu happens to be a meager 39 Sq. Km. • Taking into consideration of all aspects as mentioned above, the Administration of Daman & Diu is not in a position to declare the Wild Sanctuary under Section 26 (A) of Wildlife Protection Act. (emphasis supplied). Affidavit dated 5.3.2001: An area of 218.68 ha. in the Union Territory of Daman & Diu was proclaimed as Fudam Bird Sanctuary, under Sec. 21 of Wild Life

	(Protection) Act 1972 vide Proclamation No. 7/2-49/FD/208 dated 21.2.98. But the Final Notification u/s 26(A) shall be issued after completion of required formalities by Collector under Section 22 immediately as desired by Court in Writ Petition No. 337/95.
DELHI Affidavits dated 22.3.2001 and 13.3.2006	Affidavit dated 22.3.2001: • An area of 27.50 sq. km in NCT of Delhi has been declared as Wild Life Sanctuary. The said area was already declared as Reserve Forest in the year 1994 under Section 4 of Indian Forest Act 1927. Settlement of Rights and claims are being looked into by the Forest Settlement Officer in accordance with the provisions of the Indian Forest Act 1927. Affidavit dated 13.3.2006: The present status regarding the process of determination of rights and acquisition of land or rights, as intimated by the Deputy Commissioner/Collector, South Delhi is as under: • Village Bhatti: Khasra No. 708, 712, 713, 715, 1895 to 1900, 1903 to 1938, 1940 to 1942 of Village Bhatti were notified for Wildlife Sanctuary vide Notification No. 3(116)/CWLW/84/897-906 dated 9.10.1986. The same Khasra Nos. have also been notified as Ridge land. Out of the said Khasra Nos. Khasra No. 1933 and 1909- 1916 are occupied by unauthorized colonies named as Balbir Nagar, Sanjay Nagar, Indira Nagar, Bhatti. As intimated by the Deputy Commissioner /Collector, South Delhi, appeals for de notification of these Khasras have been referred to the Court of the Forest Settlement Officer, Delhi and the proceedings are pending in this Court. • Village Asola: Khasra No. 1667, 1668, 1673, 1728, 1738, 1744 to 1746, 1750, 1752, 1754 to 1787 of Village Asola, were notified for the Wildlife Sanctuary vide notification No. 3 (116)/CWLW/84/897 to 906 dated 09.10.1986. Out of the above Khasra Nos. Deputy Commissioner/Collector South Delhi has intimated that there is mention of "Stay" in the Revenue Record in respect of Khasra No. 1667, 1728 and 1752 and it is not clear as to which court has granted the stay and whether the proceedings are still pending or not. Deputy Commissioner/Collector South Delhi is ascertaining the position from the Director (Panchayat) since, such cases are being looked after by the office of the Director (Panchayat). • Rest of the land is under possession of Wildlife Sanctuary as per the revenue records.
GOA Affidavit dated 1.6.1999, August 2000 and 24.3.2001	Affidavit dated 1.6.1999: • Bondla Wildlife Sanctuary: Final demarcation is not yet completed. The same will be done and notification will be issued within the additional time sought. • Bhagvan Mahaveer Molem Wild Life Sanctuary: The proposal for exclusion of areas of Bhagvan Mahaveer Molem Wild Life Sanctuary submitted to the Indian Board of Wild Life has not been cleared yet. • Cotigoo Wild Sanctuary: The process of rehabilitation of the inhabitants has not been completed yet. Response on behalf of State of Goa in reply to affidavit dated 26.8.2000:

	- The State Government has worked out the cost of acquisition of land in all Sanctuaries and the details are placed before the Court. The State will require an amount of Rs.13.8 crores. Central Assistance will be taken for the purpose. Acquisition of land will proceed as per the allotment made to the State of Goa. Status report dated 24.3.2001: - Bhagwan Mahaveera Wildlife Sanctuary Molem: A total of 1766 claims have been received out of which 32 claims have been settled so far. The work of determination of rights is going on. - An area of 75-09 ha. has been acquired in Dongurlim Village and compensation amounting to Rs. 54,83, 253 /- has been paid to the owner of the land. The Government of Goa has provided Rs. 50/- lakhs for acquisition of land in Nandran Village of Molem National Park/Bhagvan Mahabeer Wild Life Sanctuary during the current financial year. The work of acquisition is in progress. - Cotigoo Wildlife sanctuary: To date 273 claims have been received. Determination of rights is going on.
GUJARAT Affidavits dated 9.2.2001 and 9.11.2006:	Affidavit dated 9.2.2001: - The work on Settlement of Protected Areas is proceeding at a rapid pace. Affidavit dated 9.11.2006 - Status of proceedings under Section 18/35 in respect of 4 National Parks and 22 Sanctuaries given in a separate table annexed to the affidavit. - The office of PCCF has reported that the procedure under section 21 is ongoing and the same would be expedited.
HARYANA Affidavit dated 27.2.2001	All the rights in the areas declared as National Parks and Sanctuaries are already settled.
HIMACHAL PRADESH Affidavits dated 25.11.1999 and 2.3.2001	Affidavit dated 25.11.1999: - Final notification under Section 26(A) of Wild Life (Protection) Act, 1972, has been issued in respect of 23 Wild Life Sanctuaries after determining the boundaries and settling claims of the local inhabitants. - In respect of 4 Wild Sanctuaries- Manali, Kias, Khokhan and Kanawar- the notification issued under Section 8 of the Punjab Wild Birds and Wild Animals Protection Act 1933 on 28.2.54 and published in Punjab Govt. Gazette on 12.3.54 had become final on the above date and is still in operation. - In respect of 5 Wild Life Sanctuaries, namely Darlaghat, Sikara Devi, Lippa Asrang, Rupri Bhawa and Sangla, the process is underway to settle the claims of the local inhabitants, which will take some more time. Court requested to grant one year's time for settling the claim of the right holders. - In respect of the Great Himalayan National Park in Distt. Kullu it is stated that, the Notification declaring the intention of the State of

	Himachal Pradesh for establishing the above park was issued on 22.2.94 under sub-section (2) of Section 35 of Wild Life (Protection) Act 1972. In pursuance of the above notification the District Collector Kullu through his orders dated 21.5.99 has determined the claims of the local inhabitants and awarded an amount of Rs. 1,55,18,023/- for the acquisition of their rights in the park. Order regarding notification of boundary of Great Himalayan National Park has been issued on 28.5.99. Out of the above award an amount of Rs.70 lakhs has already been paid to the right holders and balance amount of Rs. 85,18,023 is still required to be paid. • The State of Himachal Pradesh is under severe financial constraints and it is unable to pay this amount in lump-sum. The Court is requested to grant two year's time to enable the State to pay the compensation to the local right holders. • In pursuance of the award of the District Collector Kullu, the State of Himachal Pradesh also prepared long term plan for the development of the area and the park on which an amount of Rs.7,24,31,000/- is proposed to be spent. This amount is proposed to be spent on development of pastures, plantation, medicinal plants, afforestation, raising of nurseries, soil conservation works, maintenance of plantations and pastures to benefit people in the eco-zone surrounding the park so that acquisition of the rights in the park does not adversely affect the livelihoods of the people previously dependent on the park. Since the above plan can be implemented only in case adequate funds are available, the State has requested the Court to grant 5 year's time to enable the State to implement the plan so that, the economic status of the local inhabitants does not get adversely affected and they extend co-operation to the park management in protecting the flora and fauna within the park. • The process to finalise claims and boundaries in respect of Pin-Valley National Park is under process and a request is made for grant of one year's time to enable the State to settle the rights of the local inhabitants. Affidavit dated 2.3.2001: • Rights of the local population in the areas declared as National Parks and Wild Sanctuaries are in the process of being settled. • In 29 cases the process has been completed and final notification has been issued. • As regards the remaining 4 Sanctuaries and 1 National Park the process is going on. The State has already submitted difficulties being faced by the State in this regard due to financial stringency and an affidavit dated 25/11/99 to this effect is already filed in this Hon'ble Court. The State has also requested for further time to complete the settlement process.
JAMMU & KASHMIR Affidavits dated 6.11.1998, 24.3.2001 and 19.10.2006	Affidavit dated 6.11.1998: • Due to militancy in the State of Jammu and Kashmir for the past several years, the process of acquisition of rights could not be carried out effectively. But now with the improved condition in the State, the matter is being vigorously taken up with the respective quarters by the Department and the process of proclamation /acquisition will be completed shortly.

	Affidavit dated 24.3.2001: • The matter has been taken up with the District Collectors to ascertain the compensation to be paid to people for settlement of rights. Huge amount is required and the State Government is not in a position to meet the compensation amount. Affidavit dated 19.10.2006: • The State has its own statute namely the J& K Wild life (Protection) Act of 1978. • State of J&K has notified 4 National Parks under Section 35 and 14 Wild Life Sanctuaries under Section 17 of the J& K Wild life (Protection) Act. After notification the concerned authorities in the Revenue Department have been asked to process cases for proclamation under section 20 of the J& K Wild life (Protection) Act in respect of the National Parks and Sanctuaries. Pursuant to this, proclamations have been issued in respect of 3 National Parks and 7 Wild Life Sanctuaries. Final notification has been issued in respect of 1 National Park. Final notifications in respect of other National Parks and Sanctuaries are under way. • The concerned Revenue authorities have been asked to expedite proceedings for proclamation. Final notification will be issued thereafter as expeditiously as possible. However, because of the obtaining security situation in the State, final notification may take some time. The process of issuance of final notification involves, besides other measures, holding of public meetings, which because of security environment takes more than normal time as it can be done only after getting security clearances from various agencies. • In a devastating fire which took place on 6th April 2005 on the eve of Srinagar- Muzaffarabad Bus Service, the entire Tourist Reception Center, Srinagar wherein the Office of the Chief Wild Life Warden was also housed, was gutted. Re- construction of records, which is under process, is a time consuming process. In view of these factors, the entire process could not be completed so far. It is expected that within a period of one year the entire process will be completed. The State has filed an application for extension of time by one year.
JHARKHAND	Author's Note: Access to the affidavits filed by the State of Jharkhand could not be obtained.
KARNATAKA Affidavits dated 27.2.2001 and 21.11.2005	Affidavit dated 27.2.2001: • There are 21 Wild Life Sanctuaries in the State of Karnataka and final notifications have been issued in all 21 Sanctuaries. • As regards the National Parks, Final Notifications for an area of 571.55 Sq. Km out of the total of 643 Sq. Kms. of the Nagarhole National Park has been issued in 1983. A part of the area of Kakanhote Reserve Forest of Nagarhole, to an extent of 71,812 Sq. kms., was added later on and the proclamation for that area has also been issued. • Proclamations for 4 other National Parks, namely Kudremukh National Park, Bannerghatta National Park, Anshi National Park and Bandipur National Park have also been issued by the Revenue authorities and reports have been sent to the Govt. in this behalf. • Most of the National Parks contain settlement of large number of

	Tribals and non Tribals and quarry leases, the Settlement and extinguishments of rights in which is time consuming. The State Government has taken a stand for only voluntary relocation and hence the process will require some more time. This also entails a huge expenditure for acquisition rehabilitation and resettlement of Revenue Villages/Settlement from the Protected Areas. • No area has been de-notified from any National Park or Wild Life Sanctuaries in the State. It is however contemplated to delete 188.40 Ha for relocation of tribals displaced due to the formation of the Bandipur National Park for which the Final Notification is yet to be issued. To offset this deletion, it is proposed to add 237 Ha. of revenue land with very good tree cover to the National Park. Also an area of 1452.74 Ha. is proposed to be deleted from the initial Notified Kudremukh National Park of South Bhadra State Forest in favour of Kundremukh Iron Ore Company Ltd., wherein their mining operations have been going on for the last over 30 yrs. • As regards Someshwara Wild Sanctuary, which has been finally notified, there is a proposal for deleting the Chara Block consisting of 257 acres because these are originally revenue lands with lot of development and thickly populated and with sparse tree cover. As these lands are revenue land, the Revenue Authority had allotted them for starting up schools and education institutes earlier than the Notification and has thus led to a conflict between the people and the forest department. To compensate for this there is a proposal to include a large portion of Someshwara Reserve Forest, which has an extent of 26,653.5 acres, forming a corridor between Kundremukh National Park and Someshwara Wild Sanctuary. Affidavit dated 21.11.2005: • There are 5 National parks and 21 wild life sanctuaries in the State of Karnataka. • Final Notification for all the 5 National Parks and 21 Wild Life Sanctuaries have been issued by Govt. of Karnataka. • Provisions of Wild Life (Protection) Act 1972 with regard to determination of rights and acquisition of land or rights by the competent authority have been followed before issue of the final notification in respect of the 5 National Parks and 21 Wildlife Sanctuaries.
KERALA Affidavits filed in 1998, 2001 and 2006	Affidavit in compliance of order dated 9.10.1998: • In Kerala there are 12 Sanctuaries and 2 National Parks notified by the Government of Kerala, in different periods under Section 18 and 35 of the Act respectively. Government is of the view that further proclamation u/s 21 of the Act is not necessary as they are within Reserved Forests. • Necessary State Rules, as contemplated u/s 64 of the Act, were also formulated by Government in 1976. Affidavit in response to UOI affidavit dated 27.3.2001: • The 12 Wild life Sanctuaries and 2 National Parks notified by the Govt. of Kerala are within Reserve Forest and the rights were settled at the time of declaring them as Reserve Forests under the State Act. The necessary amendment to declare Reserve Forests (Reserved Forests declared under the Act) to be deemed to have been declared under Indian Forest Act is being made by Government of India.

	Affidavit dated 6.11.2006 • The Government is taking all steps required to protect the rich biodiversity of the State. More areas are being declared as Protected Areas subsequent to the order of the Supreme Court on 22.8.1997. Government has notified its intention to declare the following areas as Protected Areas. (i) Mathikettan Shola National Park, dated 10.10.2003. (ii) Pampadum Shola National Park, dated 14.12.2003 (iii) Anaimudi Shola National Park, dated 14.12.2003 (iv) Kurinjimala Sanctuary, dated 16.10.2006. • The process of determination of rights in newly created National Parks will be issued without further delay. No rights are pending to be settled with respect to any of the Sanctuaries or National Parks as existed in the State when the Hon'ble Supreme Court passed its order on 22.8.1997. • Status report of National Parks and Sanctuaries as existing on 1st November 2005 is annexed to the affidavit.
MADHYA PRADESH Affidavits dated 24.2.1999, 29.9.2000, 9.6.2006, and 6.11.2006	Affidavit dated 24.2.1999: • Proclamation, under Section 21 of the Wild Life (Protection) Act, 1972 for all the Sanctuaries and National Parks have been issued and completed in 1996. • There are 11 National Parks and 35 Sanctuaries in State of Madhya Pradesh. About 235 forest villages and 720 revenue villages are located within the boundaries of these National Parks and Sanctuaries. About 77,339 families are living in these 955 villages. It is estimated that if all the villages are to be relocated and land or rights are to be acquired, an amount of Rs. 77,339 lakhs will be needed for relocation and resettlement alone and a similar amount may be needed for payment for acquisition of rights and land. Thus it is estimated that a total of Rs. 1,54,678 lakhs will be needed for the acquisition of rights and land and for relocation of all 955 villages. 4523 families reside within the National Parks alone from where it is mandatory to relocate villages and acquire all rights and land before final notification of the park as per the Act. For the acquisition of land and rights and relocation of 4523 families, it is estimated that Rs. 9046 Lakhs will be required. This is the minimum needed money if acquisition of land and rights of people and relocation of villages from National Parks only is to be completed. • The State's financial position is not such that all acquisition of land and rights of people and relocation can be completed by 21.9.98 or in near future. There is no provision either in the State Budget to provide for relocation and resettlement of villages, nor for payment of compensation for acquisition of land and rights of people. Some assistance is available from the Central Government, but it is not adequate. • As per the provisions of the Wild Life (Protection) Act 1972, while it is mandatory to relocate villages from the National Parks it is not obligatory to relocate all villages from within the sanctuaries. As per the provisions of Section 24 (C) of the Act, the District Collectors may admit the claims of the people and then permit continuation of rights of people after consultation with the Chief Wild Life Warden. It is also declared policy of the State Government not to forcibly evict people from any National Park or Sanctuary. Villagers therefore will have to be relocated only if the villagers are willing to shift or they are per-

suauded to understand the need for relocation and their acceptance is voluntarily given thereafter. This process of persuasion through conservation awareness programs may not happen within a specific time limit. Keeping in view the practical problems involved in relocation and resettlement in which sentiments, beliefs and life styles of thousands of people are intricately involved, the State Government prayed for a reasonable time to tackle this socially, culturally, economically and politically sensitive issue which involves human rights issue.

- Despite the best efforts by the officials the arduous task of settlement of rights has not been completed in totality. But in most National Parks and Sanctuaries the work has been completed or is in progress.
- The purpose of issuance of Proclamation under Section 21 of the Act is to invite claims of existence of rights within a proposed National Park and Sanctuary. After the Collector issues the proclamation a period of two months is provided to people to prefer their claim. After the lapse of two months the Collector investigates each claim. This investigation involves perusal of existing land records and other records, field inspection and hearing witnesses, recording evidences after satisfying himself for all said claims. The process is obviously intricate and time consuming. The National Parks and Sanctuaries in Madhya Pradesh have a large number of people living inside them and therefore each Collector has to inquire into a large number of claims. Sometimes people living around National Parks also refer claims. This increases work load and takes a lot more time for determination of rights. There are cases in which Collectors have received no claims from people, though people live within the proposed protected area. In such situations the Collector suo moto proceeds to investigate and examine existence of rights. Collector therefore carries out a thorough legal process and functions like a civil court. This process thus takes a lot of time.

Affidavit dated 29.9.2000:

- 2 National Parks (Kanha and Van Vihar) and 3 Sanctuaries (Veerangana Durgavati, Ralamandal and Pench) have been finally notified.
- In 3 National Parks and 14 Wildlife Sanctuaries Settlement of rights as per provisions of Wild Life (Protection) Act 1972 has been completed.
- Various Collectors have issued orders for continuation of villagers inside the National Parks and Wild Life Sanctuaries with existing rights. However, details of such rights have not been spelt and detailed order has to be issued before final notification. Settlement of villages through adequate final allocation is to be ensured before final notification.
- Settlement of Rights in following 3 National Parks and 14 Sanctuaries are yet to be completed.

National Parks: Satpura, Panna, Indravati.

Sanctuaries: Bhairamgarh, Bagdara, Baranwapara, Gangau, Panchmarhi, National Chambal Wild Life Sanctuary, Panpatta, Kunopalpur, Sanjay Dubri, Sailana, Sitanandi Pamed, Ken Gharial, Udanti.

- Two National Parks (Bandhavgarh and Madhav) were partially notified. However, an additional area contiguous to park has been added later on, where settlement of rights are yet to be completed.

	14 Collectors have drastically carved out 25 to 50 percent of the area of following one National Park and 4 Wild Life Sanctuaries: - Sanjay National Park, Siddhi. - Semarsat Wild Life Sanctuary - Tamoringla - Son Gharial and - Phen Wild life sanctuary. - The Government of India Committee on Rationalization of Boundaries of National Parks and Sanctuaries is examining these cases and will give their opinion about the excision of areas. - Following difficulties have been pointed out in the affidavit in complying with the direction of the Supreme Court to carry out notification within 1 year: - Collectors are overburdened and do not have time. - Cases where settlement of right been completed the Government does not have financial or land resources to relocate villages. - Task Force for Relocation of boundaries of Protected Areas set up by Government of India is yet to give its recommendation. - Relocation of more than 24,600 families is envisaged at present estimation. Out of this about 3600 families are from National Parks where relocation is mandatory as per provision of the Act. The present rate of relocation cost of Rs.1 lakh per family and equal amount for purchase of rights will cost Government of Madhya Pradesh around Rs. 493 crores. Of this, about Rs. 72 crores will be required for National Parks. Similarly, about 50,000 ha. of arable land will have to be located for the rehabilitation. - On 13.9.2000, the State Cabinet has constituted a Sub Committee under the Chairmanship of Hon'ble Forest Minister. This committee has been assigned the following tasks: - For each National Park and Sanctuary the Committee after evaluating all conditions and on the basis of positive and negative factors, shall recommend whether they should continue in their existing form or their boundaries should be de-notified. While recommending, this should be kept in mind that there should be least relocation of habitations/ villages from these areas. - The Committee will also evaluate such forests with good density that are away from habitation and recommend them for constituting Protected Areas. - Before making recommendation the committee will also hear the view of local Public representatives. - The Committees shall complete their tasks by 31.12.2000 and submit their recommendations to the Cabinet. The Committee will submit its report by 31st Dec. 2000. Affidavit dated 9.6.2006 - The proclamation by the State of Madhya Pradesh under Section 21 of the Wild Life (Protection) Act 1972 for all the Sanctuaries / National Parks have been issued and completed in 1996 itself. A detailed chart in this respect has been filed with earlier Affidavit as Annexure R-17/OG at Page 651 of the paper book. - In the reorganized State of Madhya Pradesh there are 9 National Parks and 25 Wild life Sanctuaries spread over only 11% of the geographical area of the State. About 90 forest villages and 550 revenue villages are located within the boundaries of these National Parks and Sanctuaries. About 48,000 families live in these 640 villages for
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	which determination of rights and their settlement is required to be done. • Besides these, there are people living beyond the Protected Areas boundaries having claims to certain rights within the boundaries, notified in the preliminary notification of the Protected Areas. • In compliance with the directions of the Hon'ble Supreme Court, Collectors have expedited the process of determination of rights. However, some of the settlement orders issued by the Collectors have been found inconsistent with the spirit or letter of the law and Government is in the process of having such claims revised /reviewed. • In order to sensitize Collectors and resolve these issues, Government had organized a workshop for Collectors and Forest Officers in the Administration Academy Bhopal on 29.8.2005. The Collectors have been sensitized to the need to pass final settlement orders after consulting the Chief Wildlife Wardens. • Vide the earlier affidavit filed on behalf of the State of Madhya Pradesh, this Hon'ble Court was apprised of the enormity of the task of relocation and rehabilitation of families and payment of compensation to them after the determination of rights is completed and final settlement order issued by the respective Collectors. The same is reiterated. There are 9 National Parks and 25 Sanctuaries in the reorganized State of Madhya Pradesh. About 90 forest villages and 550 revenue villages are located within the boundaries of these National Parks and Sanctuaries. About 48,000 families live in these 640 villages. As per the provisions of the Wild Life (Protection) Act, 1972 it is mandatory to acquire all private lands that fall inside the boundaries of the Protected Areas as well as all private rights, even the Government lands, except those which the Collector in consultation with the Chief Wild Life Warden might decide to let continue in the sanctuary. In view of the enormity of the task and considering the non- availability of revenue land for relocation and the dearth of funds for rehabilitation, the Government of Madhya Pradesh is pursuing a strategy of prioritization. As per the said policy, the State does not intend to relocate all the villages from the proposed Protected Areas immediately. Its aim is to relocate only those villages that are located within critical habitats inhabited by endangered species and highly sensitive eco systems. The Government plans to relocate and rehabilitate all remaining 64 villages from the National Parks (which is mandatory under the Wild Life (Protection) Act, 1972 and only 86 villages from the Sanctuaries (out of total 576). Rest of the villages that are within the Sanctuaries but on the periphery are to be removed from the existing limits of the Sanctuaries by realignment of Protected areas boundaries. The State Government intends to do this after seeking approval of the National Board of Wild Life. • For acquisition of land and rights of 6000 eligible families from 64 villages from National Parks, it is estimated that Rs. 120 Crores will be required and Rs. 160 Crores will be needed for relocation and rehabilitation of about 8000 eligible families from 86 villages of the Sanctuaries. This is the minimum amount needed if acquisition of land and rights of people and rehabilitation of villages from National Parks and Sanctuaries is to be completed. • The State Government after great deliberation has evolved the policy not to evict people from any National Park or Sanctuary forcibly. Relocation shall be done in a phased and consultative effort of concerned villages. First, those villages where villages are willing to shift or they are persuaded to understand the need for relocation and their
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	acceptance is voluntarily given will be relocated. The process of persuasion through conservation awareness program may not happen within a specified time. State therefore, prays for reasonable time to tackle this socially, culturally, economically and politically sensitive issue, which involves human rights issue. • So far Government has relocated and rehabilitated 54 villages and rehabilitation of 10 other villages is in the process. But recent insistence of the Government on payment of NPV of forestland diverted for rehabilitation of villages is acting as a serious impediment. Earlier, Government had allowed diversion of forestland without demanding payment of NPV but there are three recent cases of diversion of forestland in which Government insisted on payment of NPV in compliance of Hon'ble Supreme Court's order in I.A. No. 566 in CWP. 202/95. Additional Affidavit dated 6.11.2006 • On 29.8.2006 the Hon'ble Supreme Court had directed Central Government to file response within 4 weeks time to explain the reasons for the reduction of area in the State of Madhya Pradesh in one National Park and 4 Sanctuaries by 25% to 50%. In this regard Government has made reference to the affidavit filed by the Government of Madhya Pradesh at pg. 2005 of Volume VII dated 29.9.2000. In the said affidavit the State Government had clarified that Government of India Committee on Rationalization of Boundaries of National Parks and Sanctuaries was examining these cases and would give its opinion about the excision of areas. It has been stated in the said affidavit that orders were passed by respective Collectors under the power granted to them under Sec.24 of the Wild Life (Protection) Act, 1972. The said power is limited to the extent that the Collectors are the authority, which would determine the rights of the people in the Sanctuaries and form a view with respect to the boundaries of the proposed sanctuary. • It is only under section 26-A that a declaration of sanctuary is made. The authority to do so is that of the State Government. The said orders of the Collectors referred to in the said affidavit dated 22.9.2000 are still being reviewed and the same have not yet been either notified or accepted by the State Government. The State Government is still undergoing the process of proper determination of rights which is subject to the consideration of the same by the Chief Wild Life Warden and CEC. Final order shall be passed only after a proper consultation and approval by the Hon'ble Court.
MAHARASHTRA Affidavits dated 20.2.2001 and 20.11.2006	Affidavit dt. 20.2.2001 • Efforts are being made to expedite settlement of rights and relocate the villagers willing for rehabilitation from inside Sanctuaries and National Parks. • Necessary guidelines in this regard have been issued vide Govt. Resolution dated 17.7.2000. • Three villages namely, Bori, Koha and Kund in the Melghat Tiger Reserve are being rehabilitated during 2000-2001. Two village - Fulzhari, and Totladoh, from the Pench Tiger Reserve as well as 3 villages; Kolsa Botezhari and Palasgaon from the Tadobe - Andhari Tiger Reserve, will be shifted during 2001-2002. Affidavit dated 20.11.2006 The following reasons are cited for delays in finalization of the process

	of settlement of rights in protected areas: • Want of consent of the people for rehabilitation outside protected area • Identification of the sites for rehabilitation with the consent of the people; • The process involved in preparation of proposals for diversion for forest land identified for the relocation; and • Non- availability of funds for the rehabilitation.												
MANIPUR	Author's Note: Access to the affidavits filed by the State of Manipur could not be obtained.												
MEGHALAYA Affidavits dated 18.5.1998 and 19.4.2006	• The following protected areas have been constituted as Wild life Sanctuaries/ National Parks and Final Notifications have been issued accordingly for areas intended to be declared as such prior to the 1991 amendment to the Wild Life (Protection) Act 1972, after due compliance with provisions of Section 21 as per procedure. <table border="1"> <thead> <tr> <th>Protected Areas</th><th>Govt. Notification No.</th></tr> </thead> <tbody> <tr> <td>(a) Balpakram National Park</td><td>For 103/84/354 of 15.2.1986</td></tr> <tr> <td>(b) Nong Khylllem wildlife Sanctuary</td><td>For 25/81/5 of 25.3.1981</td></tr> <tr> <td>(c) Siju Sanctuary</td><td>MFG-66/4 of 30.03.1979</td></tr> <tr> <td>(d) Baghmara Pitcherplant Sanctuary</td><td>For 79/84/5 of 24.5.1884</td></tr> <tr> <td>(e) Nokrek National Park</td><td>For 23/86/316 of 23.12.1997</td></tr> </tbody> </table> • In respect of all the existing National Parks and Wildlife Sanctuaries in the State there is no pending notification for issuance of proclamation under Section 21 of Wild Life (Protection) Act 1972 in the case of Meghalaya in respect of areas coming under the purview of writ petition No. 337 of 1995.	Protected Areas	Govt. Notification No.	(a) Balpakram National Park	For 103/84/354 of 15.2.1986	(b) Nong Khylllem wildlife Sanctuary	For 25/81/5 of 25.3.1981	(c) Siju Sanctuary	MFG-66/4 of 30.03.1979	(d) Baghmara Pitcherplant Sanctuary	For 79/84/5 of 24.5.1884	(e) Nokrek National Park	For 23/86/316 of 23.12.1997
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(e) Nokrek National Park	For 23/86/316 of 23.12.1997												
MIZORAM Affidavits dated 11.5.1999 and 2.2.2001	Affidavit dated 11.5.1999: • The final award for the determination of rights and acquisition of land or rights as per the Wildlife (Protection) Act 1972 for Murlen National Park has been declared for Rs. 92 lakhs by the Deputy Commissioner, Aizwal. The money could not be provided due to financial crunch in the State during the current financial year. • Regarding Khawlung Wildlife Sanctuary, the Government has been requested to release Rs. 4,85,675/- for final compensation, which also could not be settled during the current Financial Year. Affidavit dated 2.2.2001: • Dampa Tiger Reserve, Phawngpui National Park, Ngengperi Wild Life Sanctuary, Khawnglung Wild life Sanctuaries have been finally notified. • That the State Government has issued preliminary notification in respect of following protected areas for which enquiry and settlement of rights is under process: a) Murlen National Park Preliminary notification issued vide order No.												

	B.11011/13/84-FST dated 8th July, 1991. Initially it was proposed to constitute an area of 200 sq. kms in Murlen. The relocation of Murlen Village which is inside the proposed National Park could not materialize for want of heavy compensation to the tune of Rs.92 lakhs due to financial crunch being faced by the State Government and also due to the fact that number of families had increased over the years. Accordingly the revised boundary proposed by excluding the Murlen Village is under process for approval of the Govt. of Mizoram. b) Tawi Wild Life Sanctuary: Preliminary notification issued vide order No. FDR. 15-C/74-78/21 dated 20.11.78. As per the preliminary notification the area of the proposed Wildlife Sanctuary was 1035 sq. kms. Now Settlement of Rights and enquiry is under process. Due to ensuing demand of the villagers residing within the proposed area of the Sanctuary, it was proposed that Villages inside the said area be excluded for, which Govt. approval is awaited and final settlement will be completed after approval from the Government is obtained. c) Lengteng Wild Life Sanctuary: Preliminary notification No. B.12012/15/94-FST dated 8.4.99. Initially an area of 120 Sq. was proposed to be constituted for Lengteng Wild Sanctuary. During the Settlement of Rights and enquiry process, some fringe village have been proposed to be excluded for which Government approval is awaited for revised boundaries. On receipt of the same, process for final notification will be taken up through Deputy Commissioner after Settlement of Rights and final enquiry report.
NAGALAND Affidavit dated 26.3.01	Settlement of rights and relocation of people in respect of Intangki National Park is under process.
ORISSA Affidavits dated 21.11.2000 and 7.11.2006	Affidavit dated 21.11.2000: - The process of Settlement of Rights under provisions of Wildlife (Protection) Act 1972 for National Parks & Sanctuaries by the Collectors is being expedited. - The requirement of funds for resettlement of people to be relocated outside the sanctuary areas is being worked out. - The final settlement of rights, etc. is getting delayed due to paucity of funds. Affidavit dated 7.11.2006 - There are 18 Wild Life Sanctuaries and 12 National Parks out of which 1 National Park namely Bhitarkanika National Park and Gahirmatha (Marine) Sanctuary have been finally notified under section 35 (4) and 26-A respectively of the Wild Life (Protection) Act, 1972. - Six sanctuaries comprising exclusively of Reserve Forest are deemed to have been finally notified under the Act. They are: Debrigarh, Badrama, Khalasuni, Kuldiha, Hadgarh and Baisipali Chilika (Nalaban). - In the remaining 10 Sanctuaries and 1 National Park, proclamation has been issued and status of determination of rights as on 1.11.2005 is as under: National Parks 1. Bhitarkanika- finally declared on 16.9.1998. 2. Simlipal National Park- The Collector in his enquiry report had rec-

ommended shifting and relocation of 4 inhabited villages from the proposed National Park with a population of 780 families. 72 families have already been shifted out of the proposed National Park Area and they have been resettled at two locations namely Ambadiha (31 families) and Kapanda (41 families). Steps are being taken to shift balance 108 families by obtaining their consent.

Wild Life Sanctuaries

(i) Gahirmatha (Marine) Sanctuary- final notification issued on 27.09.97.

(ii) Chilika (Nalaban island)- Notification was issued under section 18 of the Act vide State Government Notification on 17.12.1987. Collector, Puri, had issued proclamation under section 21 of the Act and reported vide his letter No.278 dated 19.09.98 that no private right existed in and around the Nalaban Area. Therefore, this Sanctuary is deemed to have been finally notified and there is no need for further notification under section 26-A.

(iii) Debrigarh- since only reserve forest area has been declared as Sanctuary, it is deemed to have been finally notified under the Act.

(iv) Badarama- Since the entire Reserve Forest has been declared as a Sanctuary it is deemed to be finally notified under the Act.

(v) Khalasuni- Since the entire Reserve Forest has been declared as a Sanctuary it is deemed to have been finally notified under the Act.

(vi) Kuldiha- No claim or right in Form 8 has been received from any person within the prescribed time. Since only Reserve Forest has been declared as a Sanctuary it is deemed to be finally notified under the Act.

(vii) Hadagarh- Comprises entirely of Reserve Forest.

(viii) Baisipalli- Consists entirely of Reserve Forest. Collector Puri has however, suggested exclusion of 18 habitations from the limits of the Sanctuary.

(ix) Bhitkarkanika- Collector has made the following recommendations- There are 400 villages within the notified Sanctuary. The Collector has listed out 283 villages and proposed exclusion of these villages from the Sanctuary. 77 villages of Rajnagar Tahasil have been identified and proposed to be ringed out and allowed to continue as enclaves within the Sanctuary. Six villages, which are, actually accreted lands in Kanika Tahsil and locally called 'Dian' have been listed out for being retained as part of the Sanctuary. All lands within the balance 34 villages have been proposed to be acquired to form Sanctuary. Out of these 34 villages, 8 villages are un- inhabited where all private tenanted lands are proposed to be acquired. Inhabitants of the rest 26 villages will however need to be shifted and resettled outside the sanctuary. Since Collector's recommendation involves change of boundaries of the Sanctuary and de-notification of areas from the Sanctuary this will attract the interim orders of the Hon'ble Supreme Court dated 13.11.2000 in I.A.No.2. (emphasis supplied.)

(x) Simlipal Sanctuary- Collector, Maurbhanj has recommended for exclusion of 61 habitations from the area of the Sanctuary.

(xi) Satkosia Gorge- Collector Angul has recommended exclusion of 29 revenue villages and 3 forest villages and relocation of 1 village (Raigoda). Collector, Boudh has recommended exclusion of 13 revenue villages and relocation of 2 villages. Collector, Cuttack has not recommended exclusion of any village and has recommended for issuance of final notification. Report of Collector, Nayagarh is awaited.

	(xii) Sunebeda- Collector, Naupada has suggested relocation of 12 habitations, retention of 33 habitations within the Sanctuary as ring lined enclaves, exclusion of 3 habitations by shifting sanctuary boundary, eviction of encroachments and inclusion of Patadhara Forest Block. In view of the above position final notification under section 26 A in respect of the Sanctuary has not taken place. (xiii) Lakhari Valley- Collector has recommended for relocation of 6 habitations, exclusion of 17 habitations by shifting sanctuary boundary and eviction of 30 encroached area hamlets. Final Notification under section 26-A is contingent on executing rehabilitation of these village hamlets. (xiv) Kotgarh- The Collector has suggested in his enquiry report ring-ing out 23 habitations as enclaves within the Sanctuary, for exclusion of 35 habitations situated in the periphery from the sanctuary and relocation of 7 habitations. (xv) Karlapat-Collector has recommended for retaining 12 habitations inside sanctuary as enclaves, and for shifting 7 habitations from sanctuary. (xvi) Balukhanda Konark- Collector, Puri has recommended exclusion of certain areas from the Sanctuary. (xvii) Chankaka Dhampara- enquiry by Collector has not been completed. (xviii) Nandankanan-Collector has completed enquiry. • Rationalization of boundaries is a human problem. Sanctuaries such as (1) Debigarh, (2) Hadagarh, (3) Baispalli, (4) Bhitkarkanika, (5) Simlipal, (6) Satkosia, (7) Sunebeda, (8) Lakhan, (9) Kotgarh, (10) Karlapat, (11)Balukhand have villages, habitations/tenanted lands inside them. Based on the enquiry reports of the respective Collectors under section 22 to 25 of the Wild Life (Protection) Act, 1972, relocation of some of these villages, acquisition of tenanted land and some changes in the boundaries leading to change in the area of the sanctuary appear to be necessary. The State Government is in the process of firming up the proposal in this regard and will approach the Hon'ble Court for approval when the proposals would be ready.
PONDICHERRY	Author's Note: Access to the affidavits filed by the Union Territory of Pondicherry could not be obtained.
PUNJAB Affidavit dated 16.12.2005	• There are 11 wildlife sanctuaries in the State of Punjab namely, Bir Motibagh, Bir Bhunerheri, Bir Gurdiyal Pura, Bir Mehas, Bir Bhadson and Bir Dosanjh in Distt. Patiala; Bir Aishwan in Distt Sangroor, Takhni Rehampur in Distt Hoshiarpur, Jhajjar Bachauli in Distt. Ropar, Harike and Abohar Sanctuaries in Distt. Ferozepur. Out of these, six sanctuaries were notified before the enactment of Wild Life (Protection) Act 1972 and are therefore, deemed as Sanctuaries. Proclamation under Section 21 of the Wild Life (Protection) Act 1972 has been issued in respect of the remaining Wildlife Sanctuaries. • The process of settlement of rights in respect of Gurdialpur (Distt. Patiala); Harike (Distt. Ferozepur); Takhni-Rehmapur (Distt. Hoshiarpur) and Jhajjar-Bachauli Sanctuary (Distt. Ropar) has been done and final notification under Section 26A of the Wild Life (Protection) Act 1972 has been issued. • The process of settlement of rights in respect of Abohar Wildlife sanc-

	tuary cannot be completed because the entire area of the sanctuaries is a private land dominated by the Bishnoi Community. Rights of local people in or over land with the limit of Abohar wildlife sanctuary except hunting, shooting, killing and capturing of any kind of wild birds and animals have been allowed under Section 24 of the WP Act by District Collector Ferozpur, in consultation with the Chief Wildlife Warden, Punjab. The Abohar Sanctuary has been notified under the Wild Life (Protection) Act 1972.
RAJASTHAN Affidavits dated 13.6.1999, 19.2.2001 and 16.10.2006	Affidavit dated 13.6.1999: • Out of 27 protected areas (National Parks /Sanctuaries) the process of determination of rights and acquisition of rights as contemplated by Wild Life (Protection) Act 1972 has been completed in 25 Protected Areas and partially completed in the remaining 2 areas. The concerned Collectors have issued orders under Section 24 of Wild Life (Protection) Act 1972. • Note at the bottom of the table in Annexure R-1: The orders of the Collector, Bundi were in contravention of the Forest (Conservation) Act, 1980, Rajasthan Forest Act 1953, Wild Life Protection Act 1972 and Hon'ble Supreme Court decision in Writ Petition 202/95 and Writ Petition 337/95. These have been contested by Forest Department and the orders have been stayed by Rajasthan High Court. The acquisition of right in National Park is a long drawn process dependant on availability of resources, willingness of people and several other factors. It is likely to take some more time. Affidavit dated 19.2.2001: • Settlement of rights in all National Parks and Sanctuaries has been completed. As a first step, relocation package of Rs. 401 lakhs for 4 villages in Ranthambore National Park i.e. Padra Khatuli Mordungri and Indala have been forwarded to Govt. of India by State Government. • Out of 11 villages inside Sariska National Park, proposal for relocation of 4 villages, i.e. Umri, Kiras Ka, Kankwadi and Bhagani for Rs. 429.93 lakhs, have been forwarded to Govt. of India by Govt. of Rajasthan. Other relocation will be taken up after completing the above. Affidavit dated 16.10.2006 • As on 1.11.2005 there are 2 National Parks and 25 Wild Life Sanctuaries and 2 proposed National Parks. • Process of determination of rights and acquisition of land or rights as contemplated under section 24 of the Act have been completed in 24 Wild Life Sanctuaries and 2 National Parks by 1.11.2005 except for Mount Abu Wild Life Sanctuary. (The details have been given in an Annexure). • Mount Abu Wild Life Sanctuary- The District Collector issued proclamation under section 21 of the Wild Life (Protection) Act on 3.4.1997. This was declared under the provisions of the Rajasthan Wild Animals and Birds Protection Act 1951 as 'Reserved Area'. Clarifications were sought from the Chief Wild Life Warden on one occasion and the District Collector Sirohi, by the State Government stating that the above 'Reserved Area' is deemed a Sanctuary under the present Act. Thereafter, the process of determination of rights has been re-initiated and proclamation under section 21 of the Act has been completed by the District Collector Sirohi on 4.10.2006. • In the case of Ranthambore National Park, Sawaimadhopur, process of determination of rights has been completed on 21.08.1992. Process of

	relocation of village Indala situated in the Ranthambore National Park was initiated in the year 1997. In 1999 a proposal was made for diversion of forestland for relocation of village Indala situated inside the park and was sanctioned by the Government of India in November 2000. Due to subsequent absence of consent of villagers of Indala village the relocation of the village could not be done. Process of relocation was once again initiated in 2005. Four alternative sites for relocation have been identified in Sawaimadhopur and Tonk District and consultation with the villagers is under process to prepare them for relocation. After relocation of village Indala acquisition of rights and land will be completed. • Status of proposed National Parks as on 1.11.2005- Desert National Park- process of determination of rights under Section 24 of the Act was completed on 7.7.1999. Process of acquisition of land or rights involves relocation of around 48 villages with a large population to alternate sites. It also entails acquisition of land admeasuring around about 1529 Sq Km. The amount of compensation required for the purpose of acquisition of land and rights is substantial. Hence, due to financial constraints and interest of large number of villages involved in the process of relocation, not much progress could be achieved. Sariska National Park- Process of determination of rights under section 24 was completed on 22.10.1999. Total compensation of Rs. 2.68 lakhs to the 8 claimants was paid by the State Government. There are however, 11 settlements having no rights as determined by the Collector involving about 850 number of families situated inside the proposed Sariska National Park. Efforts are being made to relocate them outside National Park area. Once the settlements are relocated outside the park, the process under section 35 (4) will be completed.
SIKKIM Affidavits dated 13.12.2000 and 7.11.2006	Affidavit dated 13.12.2000: • A Village called Tshoka having an area of 30 acres included as an integral part of Khangchendzonga National Park during the time of extension and expansion of the National Park in 1997 has been considered for relocation. The funds required for payment of compensation to those families occupying 30 acres of land is submitted to the Govt. of India, Ministry of Environment & Forest for consideration. Affidavit dated 7.11.2006 • 7 Sanctuaries and 1 National Park have been declared after duly following the procedure laid down under sections 18, 19, 21 of the Wild Life (Protection) Act, 1972. A chart showing the status regarding the determination of rights and completion of process of determination and final declaration under provisions of the Wild Life (Protection) Act, 1972 annexed. • A cadastral survey was carried out in the State in 1950-1952 and a new survey was carried out in 1980-82 and the entire forest land and private holding were demarcated by pillars and as such the Sanctuaries were declared and proclamations were issued in terms of the above surveys. It is submitted that in declaring the Sanctuaries/ National Parks in the State of Sikkim, the rights of the public at large are not affected as no private lands are involved and therefore provisions of Section 24 and 25 of Wild Life (Protection) Act, 1972 are not attracted.

TAMIL NADU	Author's Note: Access to the several affidavits filed by the State of Tamil Nadu could not be obtained.
TRIPURA Affidavits dated 17.7.1998, 19.2.2001 and 6.11.2006	Affidavit dated 17.7.1998: - Proclamation U/s 21 of W P Act has already been issued in respect of all 4 sanctuaries and notified in the approved Gazette on 23.2.1998. - Pursuant to that, some claims have been preferred with the Land Acquisition Collector pertaining to areas within such sanctuaries, which are not finally constituted Reserve Forests. - All the 4 sanctuaries have been notified covering forestlands only. Parts of 3 Sanctuaries were constituted as Reserved Forest under section 20 of the Indian Forest Act before these were notified as sanctuaries. Only Roo Sanctuary does not have any Reserve Forest. - Claims in respect of those areas falling within the Reserve Forests, which were constituted, have already been settled in order to notify these Sanctuaries under section 26 (A) and Wildlife (Protection) Act 1972. It will thus be necessary for the Land Collector to inquire u/s 24 the rights pertaining to areas that fall outside the Reserved Forests. Affidavit dated 19.02.2001: - Proclamation in 4 Sanctuaries issued. The Settlement of Rights and final constitution of Sanctuaries is under process. Progress is held up due to want of funds. Additional funds sought by the State from Govt. of India for resettlement of dislocated people outside Sanctuaries are yet to be received. Affidavit dated 6.11.2006 State had submitted its status report on determination of rights and acquisition of land in respect of all Sanctuaries and National Parks on 1.11.2005. State is taking steps in compliance of the direction issued by this Hon'ble Court for determination of rights and acquisition of land or rights in respect of Sanctuaries and National Parks.
UTTARAKHAND	Author's Note: Access to the affidavits filed by the State of Uttarakhand could not be obtained.
UTTAR PRADESH Affidavits dated 30.11.1998, 9.11.1001 and 18.10.2006	Affidavit dated 30.11.1998: - Proclamations under Section 21 of the Wild Life (Protection) Act 1972 for all the Sanctuaries/ National parks have been issued in Uttar Pradesh. - As per the provisions of the Wild Life (Protection) Act 1972, while it is mandatory to relocate villages from the National Parks it is not obligatory to relocate all villages from within the Sanctuaries. As per the provisions of Section 24(C) of the Act, the District Collectors may admit the claims of the people and then permit continuation of rights of people after consultation with the Chief Wild Life Warden. It is also declared policy of the State Government not to forcibly evict people from any National Park or Sanctuary. Villagers therefore will have to be relocated only if the villagers are willing to shift or they are persuaded to understand the need for relocation and their acceptance is voluntarily given thereafter. This process of persuasion through conservation awareness programs may not happen within a specific time limit. Keeping in view the practical problems involved in relocation and resettlement in which sentiments, beliefs and life styles of thousands of people are intricately

	involved, the State has requested the Court for the grant of reasonable to tackle this, socially, culturally, economically and politically sensitive issue which involves human rights issue. - State may be permitted to prepare a phased program of relocation and acquisition of rights in concurrence with financial assistance from the Central Government. Affidavit dated 9.11.2001: - The State Government is making all possible efforts to complete the settlement proceedings in respect of National Park's and Wild Life Sanctuaries. - The State Government has decided that the private land within the Sanctuaries will not be acquired and people will not be relocated from the Sanctuaries. - However in case of National Parks relocation in accordance with the rules would be completed as soon as possible. Affidavit dated 18.10.2006 - Details regarding progress of settlement in National Parks and Sanctuaries given in chart annexed as Annexure-A. - Settlement completed in some National Parks and Sanctuaries and in progress in some.
WEST BENGAL Affidavit dated 26.2.2001	Settlement of proceedings in all National Parks and Sanctuaries is completed in West Bengal.
UNION OF INDIA Affidavits dated 16.3.1999 and 14.7.1999	Affidavit dated 16.3.1999: - The Ministry has been receiving reports from the Chief Wild Life Wardens of the States that although settlement process has been initiated in most of the States and the Final Notifications have been issued in 40% of the protected areas, the main problem seems to be the constraints of funds. - As the State Governments are required to pay substantial amount as costs of acquisition of rights in the National Parks and Sanctuaries, the Ministry of Environment & Forest has set up a Task Force for Rationalization of Boundaries of National Parks and Sanctuaries. In the process the Task Forces have been requested to look into all such cases where large extent of Wild Life habitats are proposed to be excluded from the National Parks and Sanctuaries. - The Union of India urged the Hon'ble Court to direct all the State Governments not to exclude any area from National Parks and Sanctuaries till these Task forces submit their report. Affidavit dated 14.7.1999: - This affidavit was filed in pursuance of the order dated 31.3.99 of Supreme Court whereby the Court wanted same action by the Central Govt. for the effective implementation of the Wild Life Act. In order to enable the State Governments to expeditiously complete the settlement proceeding in the protected areas, the Central Govt. has introduced a new component in its scheme 'Development of National Parks and Sanctuaries'. A provision of Rs. 35 crores has been made to assist the State Government towards accomplishing this objective during the 9th Five Year Plan. Further, the Central Govt. has also set up committees to ensure that the realignment of boundaries of the protected areas as a result of settlement procedure is done in a judicious manner that is consistent with the overall interest of Wild Life Conservation.

Appendix F

Key orders in Godavarman Thirumalpad v. Union of India, Writ Petition (C) no. 202 of 1995

IA No.	Subject matter	Date and summary of order	Implications
W P (C) 202/1995	Definition of "forest land"	12.12.1996 For the purpose of section 2 of the Forest Conservation Act, 1980 "The term "forest land", occurring in section 2, will not only include "forest" as understood in the dictionary sense, but also any area recorded as forest in the Government record irrespective of the ownership...The provisions enacted in the Forest Conservation Act, 1980 for the conservation of forests and the matters connected therewith must apply clearly to all forests so understood irrespective of the ownership or classification thereof." (1997) 2 SCC 267 at para 4	The order is already being implemented in many States, with the concerned Forest Departments undertaking massive boundary re-demarcations. Demarcation of "forest-like lands" has also begun in many States under the supervision of the Court.
IA 295	Constitution of CEC	9.5.2002 A Central Empowered Committee constituted at the national level to monitor the implementation of the Court's orders in the Godavarman and CEL, WWF-I cases, and place non-compliance before it in respect of all the forest areas in the whole of India.	The CEC was not notified under the Environment Protection Act, 1980, as originally directed. Instead, the membership, powers and functions of the CEC are determined by the order of the Court, and therefore it is an extra-statutory body with enormous powers and little accountability.
IA 424	Compensatory Afforestation	22.9.2000 In a matter pertaining to a proposal for regularisation of encroachments made by the State of MP: held that "experience has shown that whenever regularisation takes place subject to imposition of certain conditions such as compensatory afforestation, the regularisation becomes effective without conditions ever being fulfilled...In our opinion it will be more appropriate that the conditions imposed in relation to regularisations are required to be fulfilled first before	The position taken by this order that regularisation of encroachments requires prior and mandatory fulfilment of compensatory afforestation conditions, is already under challenge in a number of IAs before the Court.

IA No.	Subject matter	Date and summary of order	Implications
		any regularisation is granted". In IA 424 in WP (C) 202/ 1995. Quoted from Compilation of Orders in Saving India's Forests and Wildlife, Sanctuary, Mumbai, November 2003, p. 23	
IA 566	Compensatory Afforestation	23.11.2001 MoEF directed to formulate scheme: • Applicable to all applications for non-forest use of forest land; • Condition of permission is compensatory afforestation- the responsibility should be that of user-agency; • User agency should be required to set apart a sum of money for this; • State Government concerned will provide land on which reforestation can take place, either at its own expense or at the expense of the user agency, as the State Government may decide. In IA 566. Unreported order.	This order has to be read with subsequent orders of the Court mentioned below.
I.A. 566	Net Present Value	30.10.2002 "while according transfer under the Forest Conservation Act, 1980 for change in user-agency from all non-forest purposes, the user agency shall also pay into the said fund the net present value of the forest land diverted for non-forest purposes. The present value is to be recovered at the rate of Rs. 5.80 lakhs per hectare to Rs. 9.20 lakhs per hectare of forest land depending upon the quantity and density of the land in question converted for non forest use. This will be subject to upward revision by the Ministry of Environment and Forests in consultation with Central Empowered Committee as and when necessary." Order passed in I.A. 566, 2002 (9) SCALE 81	This order is open to the interpretation that it applies not only to regularisation of encroachments, but also settlement of rights, and conversion of forest villages into revenue villages. Such an interpretation, if adopted, would need to be challenged, since it would be a huge disincentive to regularisation of encroachments and settlement of rights. Many challenges to the scientific rationale (or lack of it) of this concept are presently pending in the Court.

IA No.	Subject matter	Date and summary of order	Implications
IA 826 and 859 in IA 566	Net Present Value	1.8.2003 "...adjourned for four weeks. In the meantime, no approval shall be granted without imposing the condition indicated in this Court's order dated 30.10.2002 relating to the payment of net present value of the forest land". Order in IA no. 826 and 559 in WP (C) 202 of 1995, unreported.	Payment of NPV by user agencies is mandatory throughout the country. MoEF has issued Guidelines dated 17.9.2003 regarding payment of NPV, according to which NPV shall be payable in all cases that have been granted in-principle approval after 30.10.2002, i.e., before Stage II approval. The funds should be transferred to CAMPA.
Minor Forest Produce			
IA 548	Removal of MFP from protected areas	14.2.2000 "In the meantime, we restrain respondents No.2 to 32 from ordering the removal of dead, diseased, dying or wind-fallen trees, drift wood and grasses, etc. from any National Park, Game Sanctuary or forest. If any order to this effect has already been passed by any of the respondent-States, the operation of the same shall stand immediately stayed." Order in IA no. 548, unreported. Subsequently the word "forest" was deleted vide order dated 28.2.2000.	These orders, in effect, bar collection of aforementioned materials from protected areas. It has been interpreted by many State Forest Departments as a bar on collection of any kind of MFP from any protected area. There is serious doubt about whether this order runs counter to the rights recognised by the WPA itself, by Settlement Orders passed under the WPA, as well as customary rights, and more recently the rights conferred by the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.
IA 548	Removal of MFP from protected areas	3.4.2000 Upon a representation by the State of Rajasthan: "it is clarified that the said interim order will have no application in so far as plucking & collection of tendu leaves is concerned". Order in IA no. 548, 2000 (4) SCALE 168	
IA 707	Removal of MFP from protected areas	18.2.2002 "It is clarified that the order of this Court prohibiting cutting of trees does not apply to bamboos including cane, which really belongs to the grass family, other than those in the national parks and sanctuaries. In	

IA No.	Subject matter	Date and summary of order	Implications
		other words, no bamboos including cane in national parks and sanctuaries can be cut but the same may be cut elsewhere." Order in IA 707, as quoted in Saving India's Forests and Wildlife, Sanctuary, Mumbai, November 2003, p. 31.	
IA 1220 in IA 548	Non-forest activities permissible in protected areas	14.9.2007 "The CEC has filed an interim report wherein it has stated that this Court passed an order dated 14.2.2000 by which certain activities were expressly prohibited ... But it was not specifically stated as to what permitted activities could be done in the forest which may not have any commercial concern. In the CEC report it has been stated that the removal of weeds, clearing and burning of vegetation for fire lines, maintenance of fair weather roads, habitat improvement, digging, temporary water holes, construction of anti-poaching camps, chowkies, check posts etc. may be essential for maintenance of forests and for the prohibition and supervision of the forests for the Forest Department. We permit all these activities to be done though they do not come within the purpose of Order passed on 14.2.2000. It is also stated that the following activities may also be permitted: (i) laying of underground drinking water pipelines up to inch diameter; (ii) laying of 11 KV distribution lines for supply of electricity to rural areas; (iii) laying of telephone lines or optical fiber for providing communication facilities in rural areas; (iv) wells, hand pumps, small water tanks etc. for providing drinking water facilities to villagers, who are yet to be relocated from the protected area. In addition to the above, the Anganwadies, government schools	

IA No.	Subject matter	Date and summary of order	Implications
		and government dispensaries which are essential for the inhabitants of people who are nearer to these forest areas shall continue and the Government may carry out construction activities in the forest area for the said purposes without there being any cutting or falling of trees. The States may file application for clarification, if any of the States have any other other difficulty. It is open to them to make any appropriate suggestion in this regard. I.A. is disposed of accordingly." Order in IA 1220 in IA 548, unreported.	
Minor Forest Produce			
IA 418	Grant of patta	7.5.1999 In a case regarding regularisation of encroachments in Tamil Nadu: "in the meantime, no patta with regard to any forest land shall be granted nor shall any encroachment be regularised". Order in IA no. 418, unreported.	For consistency, any challenge to the order dated 23.11.2001 (below) must include a challenge to this order.
IA 703	Regularisation of encroachments	23.11.2001 "An application has been filed by the Id. Amicus Curiae in Court against the illegal encroachment of forest land in various States and Union Territories is taken on board. Let the same be registered and numbered. Issue notice to the respondents returnable after six weeks. There will be an interim order in terms of prayer (a)." Order in IA 703, unreported. The prayer (a) in IA 703 is reproduced below: "(a) Restrain the Union of India from permitting regularisation of any encroachments whatsoever without the leave of this Hon'ble Court".	For the last six years there has been an "interim" stay on regularisation of encroachments. Also, it has been interpreted by State Governments as a stay on settlement of disputed claims as well. Therefore the process of settlement of land rights under the 1990 Guidelines has come to a complete standstill. The order spawned a large number of applications by a variety of interest groups, which are all to be heard together. The recently passed Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 addresses most of these concerns.

IA No.	Subject matter	Date and summary of order	Implications
IA 502	Regularisation of encroachments in Andaman & Nicobar Islands.	7.5.2002 "Regularisation of encroachments on forest land in any form, including allotment/ use of forest land for agricultural or horticultural purposes, shall be strictly prohibited.... All post 1978 forest encroachments shall be completely removed within three months." Order in IA no 502, unreported.	It is important to note that this order applies only to the UT of Andaman & Nicobar Islands, and that it is under challenge in a number of applications and petitions currently pending before the Court.
IA 276	Eviction of "encroachers"	30.10.2002 While directing the eviction of encroachers from Tatkola Reserved Forest, Chickmagalur district, Karnataka., the Court observed: "There can be no manner of doubt that any land which forms part of the Thatkola Reserve Forest could only belong to the Government. Once the forest was established in the year 1936, all other rights therein came to an end." It was further directed that those who did not voluntarily vacate/surrender the encroached lands by the specified date would have to pay punitive compensation at the rate of Rs. 5 lakh per ha per month to the State Government. 2002 (9) SCALE 81	The Court passed these directions only after prolonged examination and several enquiries identifying individual encroachers. Imposing exemplary fines is well within the power of the Court. Therefore, the distinction between industrial/ commercial encroachments and 'encroachments' by socio- economically marginalised sections has to be re-emphasised before the Court.
IA 1126	Regularisation of tribal rights over forest lands	23.2.2004 Implementation of 5 MoEF orders stayed, namely: • notification dated 3.2.2004: notifying the Forest Conservation Rules, 2004 • circular dated 5.2.2004: regularise tribal rights over forest land all over the country within one year, treating 31.12.1993 as cut off date for eligibility. • order dated 7.10.2003: regularising encroachments on 1,68,840.291 hectares, and permitting its mutation as revenue land in MP; • order dated 6.2.2004: diversion of forest land for pilot project for relocation of tribals from forests in Dhalai district, Tripura; • order dated 13.1.2004: conversion of 67 forest villages into revenue villages in Badwani, MP; Order in IA no. 1126, unreported.	The stay order had created an uncertainty in the legal position regarding variety of issues in the area of tribal land rights. The position has become clearer with the passage of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 by Parliament.

IA No.	Subject matter	Date and summary of order	Implications
IA 1126	Regularisation of encroachments on forest lands	11.2.2005 "At request, Mr. Mohan Parasaran, learned Additional Solicitor General appearing for the Ministry of Environment and Forest in I.A. No.1126 in I.A. No.703 in Writ Petition (C) No.202 of 1995, is granted one week's time to file affidavit stating the cut-off date for regularisation of encroachment on the forest land. It is stated that a policy decision has been taken that the cut-off date would be 25th October, 1980 and not 31st December, 1993." Order in IA no. 1126, unreported.	The MoEF was pressed into making this undertaking to the Court in the light of the Government Order dated 5.2.2004 (see above) even though the said order had already been stayed by the Court. It seems that the MoEF did file an affidavit reiterating this undertaking. It is doubtful, however, whether these orders will be operative in the light of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 enacted by Parliament.
IA 1345 in IA 1252	Regularisation of encroachments on forest lands in Orissa	13.4.2006 "The recommendations made by the CEC in para 8(i) to 8(iv) and para 9 of its report dated 11th July, 2005 are acceptable to the State Government. The State Government is, therefore, permitted to regularize pre-25th October, 1980 encroachments subject to the following conditions under the overall supervision of the Regional Chief Conservator of Forest, Bhubaneshwar, subject to clearance, if any, given by the MoEF: (i) Regularization of encroachments in favour of the eligible encroachers will be done simultaneously with the eviction of ineligible encroachers and taking back of excess land in possession of the eligible encroachers; (ii) No regularization of encroachments which have taken place on forest land after 25.10.1980 will be done; (iii) The MoEF's guidelines dated 18.9.1990 will be strictly adhered to; and (iv) Compensatory afforestation over equivalent non-forest land will be carried for which adequate funds will be made available by the State of Orissa." Order in IA 1345 in IA 1252; unreported.	By recommending that the regularisation of such encroachments be permitted under the Forest Conservation Act, 1980 as requested by the State of Orissa, the CEC made a clear departure from its earlier uncompromising position regarding removal of 'encroachments' by forest dwellers from forest lands.