



Green Files

Newsletter on environment audit and sustainable development issues

International Centre for Environment Audit and
Sustainable Development (iCED)



Green Files, a quarterly newsletter compiled by iCED Jaipur, is meant for circulation in IA&AD. This newsletter highlights issues on environment and sustainable development which can enable audit offices identify areas of audit concern. It comprises results of recent environmental conferences-national & international; “state in focus” where environment issues in a state are highlighted; critical appraisal of national environmental acts; snapshots of recent news on environment from across India; Supreme Court judgements on environment issues as well as recent national and international audit reports pertaining to environment and sustainable development.

We look forward to your suggestions to make Green Files more relevant. Contributions to the newsletter are also welcome. These can be mailed to iced@cag.gov.in.

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I. Warsaw Climate Change Conference - November 2013

1) Background

The 19th Conference of the Parties (COP 19) of the United Nations Framework Convention on Climate Change (UNFCCC) was held from November 11 to 22, 2013 in Warsaw, Poland. It was the 19th yearly session of the Conference of the Parties (COP 19) to the 1992 United Nations Framework Convention on Climate Change (UNFCCC) and the 9th session of the Meeting of the Parties (CMP 9) to the 1997 Kyoto Protocol. Government delegates and civil society representatives from around the world met to discuss the international climate policy agenda under the UNFCCC process. Convention bodies under the Warsaw conference included the Meeting of the Parties to the Kyoto Protocol (CMP), the Subsidiary Body for Scientific and Technological Advice (SBSTA), the Subsidiary Body for Implementation (SBI), and the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP). The Warsaw COP was a milestone on the road to the 2015 UNFCCC Conference of the Parties 21 in Paris, France, where delegates are expected to sign a global deal to curb emissions of harmful greenhouse gases and help adapt to climate change.

2) Objectives of the conference

- The overarching goal of the conference was to reduce greenhouse gas emissions (GHGs) to limit the global temperature increase to 2 degrees Celsius above current levels.
- Clean energy, and specifically the financing and technology transfer of renewables in developing countries, was of main importance during the conference.
- Technology transfer and sharing of intellectual property between industrialised and developing countries was a major concern in the Warsaw talks.

- Steps to be taken to sign a global deal to curb emissions of harmful greenhouse gases and help adapt to climate change.

- Another objective was also to create a loss and damage pillar of a new climate treaty to be finalized in 2015.

3) Issues discussed

- Several preliminary and actual agreements were at the forefront of the talks, including: unused credits from phase one of the Kyoto Protocol, improvements to several UNFCCC action mechanisms, and a refinement of the measurement, reporting, and verification of greenhouse gas emissions (GHGs).

- Delegates were to focus on the potential conditions of a final global climate change agreement expected to be ratified in 2015 at the Paris Conference.

- The Convention urged developed country Parties and Annex II Parties to take all practicable steps to promote, facilitate and finance, as appropriate, the transfer of, or access to, environmentally sound technologies and know-how to other Parties, particularly to developing countries, to enable them to implement the provisions of the Convention.

4) Outcomes

- Compromise was reached on the framework for a 2015 agreement, resulting in a new text for the Durban Platform for Enhanced Action (ADP) that will form the basis of negotiations going forward. The key portion of text reads: All nations should “initiate or intensify domestic preparations for their intended nationally determined contributions.” Additionally, it was agreed that these “contributions” should be ready by the end of the first quarter of 2015.

- In the new Warsaw agreement, countries set their own baselines and define their own reduction strategies, thus making comparisons between countries’ efforts far less transparent and harder to calculate.

- Finance and financial contributions have been a central part of recent negotiations, with developing countries calling for financial contributions to existing funding mechanisms before they were willing to talk about post-2020 emission reduction actions. Several fragmented pledges for new money emerged from Warsaw.
- The main outcome of the meeting was the establishment of an international mechanism for a loss and damage associated with climate change impacts.
- The Warsaw agreements reached a compromise in which a Warsaw mechanism for loss and damage would be set up under the existing institutions that are supposed to fund projects that help poor countries to adapt to climate change.
 - At Warsaw, the rich countries refused to make specific interim financial commitments, although they did agree to file biennial reports outlining what their plans are for funding climate change adaptation for poor countries between now and 2020.

Sources:-

http://unfccc.int/meetings/warsaw_nov_2013/meeting/7649.php
<http://www.climatenetwork.org/event/warsaw-climate-change-conference-november-2013>

II. Environment Case law in India: T.N. Godavarman Thirumulpad v/s Union of India or the Forest case, 1995

1) Background of the case

Since 1995, the Supreme Court of India began playing a proactive role in matters of forest policy and governance. This was the beginning of the ongoing matter being heard in the apex court as T.N. Godavarman Thirumulpad v/s Union of India [W.P. (Civil) No.202 of 1995], popularly known as the Forest Case or the Godavarman Case. Its

history can be traced back to the time when the Supreme Court took action against large scale illegal felling of timber and denuding of forests in Gudalur Taluk, Tamil Nadu.

One of the initial orders in this case substantially changed the manner in which forests had been viewed and managed. The order of 12.12.1996 expanded the meaning of the word “forests” to its dictionary meaning in the Forest (Conservation) Act (FCA), 1980. Prior to this clarification, the word forest had not been explicitly defined, and some state governments chose to apply the vaguely defined term only to “reserve forests,” i.e., those that receive the highest level of legal and environmental protection. States used this narrow interpretation to effectively “de-reserve” other protected forests and allocate them for commercial or industrial use. In 1996, the Supreme Court interpreted the word forest by its dictionary meaning. According to this new broader definition, any forest thus defined, regardless of ownership, would be subject to Section 2 of the FCA. Section 2 of FCA specifies that no state government or other authority may allow the use of any forest land for any non-forestry purpose without prior approval from the central government. Under the new interpretation of forest land under Section 2 of the FCA, states could no longer de-reserve protected forests for commercial or industrial (non-forestry) use without permission.

2) Judgement of the court

The Godavarman case continues to issue interim orders and judgements around several aspects including tree felling, operations of saw mills, violations of approvals for forest diversion, de-reservation of forests and many other matters related to compensatory afforestation

- It temporarily suspended all tree felling in all forests with the exception of state

governments' working plans. The order effectively froze the country's timber industry.

- The Supreme Court completely banned, with minor exceptions, tree felling in three whole states and parts of four other states in the forest-rich North East; it ordered saw mills to close down where a complete ban was directed; and it banned any transportation of timber out of the North East states.

- The order required state governments to constitute expert committees to map forest land, conduct a detailed survey of the timber industry, and measure the sustainability of forests with respect to the number of saw mills.

- In 1998, the Supreme Court suspended all licenses to all wood-based industries in the seven North East states and ordered the relocation of those industries to state-specified industrial zones where they could be more closely monitored.

- On November 24, 2001, the Supreme Court asked the MoEF to put together guidelines for compensatory afforestation so states could grant diversions of forest land while simultaneously ensuring a stable percentage of forest cover in the country. The Court asked that these guidelines be provided by February 18, 2002. On that date, no such guidelines had been submitted. Without these guidelines, the MoEF could not adequately implement any policy allowing diversions of forests for commercial use while increasing forest land in other area. To compensate for the MoEF's failure to cooperate, the Supreme Court, in October 2002, began making its own guidelines for management of afforestation. It required that states pay the net present value (NPV) of forest land that they divert for public sector projects, mining companies, and private companies. This NPV could be between Rs 5.8 lakh (approx. \$12,800) and Rs 9.2 lakh (approx. \$20,200), depending on the density and quality of the forest land diverted.

- In order to assist the court as well as monitor the implementation of the court's orders, the forest bench initiated the process of setting up an Authority in pursuance with the provisions of Section 3 (3), Environment (Protection) Act, 1986. On 9.5.2002, the court ordered the setting up of the Central Empowered Committee (CEC) with explicit functions of monitoring the implementation of the court's orders, look into cases of non-compliance including those related to encroachments, implementation of working plans, compensatory afforestation, plantations and other conservation issues.

- The Supreme Court also curbed the diversion of funds to non-afforestation activities by ordering the creation of a central fund for all money collected by NPV payments. States, particularly in the North East, were not spending all the funds collected for afforestation, sometimes diverting over one-half of the funds for other purposes. In accordance with the Supreme Court order, the MoEF constituted the Compensatory Afforestation Management and Planning Agency (CAMPA) to manage the collected funds. CAMPA can redistribute funds directly to organizations engaging in afforestation, effectively bypassing the state governments.

- In 2005, the Supreme Court issued another order concerning NPV, detailing the legal motivation and justification for NPV, the specific means by which the value of forests should be calculated, and how the collected funds should be managed.

3) Significance of the judgement

The Godavarman and the Centre for Environmental Law (CEL), WWF vs Union of India¹ and others cases have led to

¹ Perhaps the most significant case after the Godavarman in respect to forests is the case titled CEL, WWF India Vs Union of India (W.P 337 of 1995) although in its scope it is rather limited than the Godavarman. It concerns largely the implementation of the Wildlife (Protection) Act, 1972. The

fundamental changes that have wide impact on forest management. Some of these are:

1) No forest, National Park or Sanctuary can be de-reserved without the approval of the Supreme Court.

2) No non-forest activity is permitted in any National Park or Sanctuary even if prior approval under the Forest (Conservation) Act, 1980 had been obtained.

3) An interim order in 2000 prohibited the removal of any dead or decaying trees, grasses, driftwood, etc. from any area comprising a National Park or Sanctuary. It was also directed that if any order to the contrary had been passed by any State government or other authorities, that order shall be stayed.

4) New authorities, committees and agencies have been set up such as the Central Empowered Committee (CEC) and the Compensatory Afforestation Management and Planning Agency.

Sources:

elr.info/sites/default/files/articles/37.10032.pdf;
[http://indiankanoon.org/search/?formInput=t.n.%20godavarman%20thirumulkpad](http://indiankanoon.org/search/?formInput=t.n.%20godavarman%20thirumulkpad;);
forestcaseindia.org/f2

III. Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006: a critical analysis

1) Background

The Ministry of Tribal Affairs is the nodal agency for implementing the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. The Act seeks to recognize and vest the forest rights and occupation in forest land in forest dwelling

decisions in this case have had tremendous impact on the forest management across the country.

Scheduled Tribes and other traditional forest dwellers who have been residing in such forests for generations but whose rights could not be recorded. The Act was notified for operation with effect from 31.12.2007. The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 for implementing the provisions of the Act were notified on 1.1.2008. The Ministry of Tribal Affairs is to ensure that the intended benefits of this welfare legislation flow to the eligible forest dwellers, has also issued comprehensive guidelines to the State/UT Governments on 12.7.2012 for better implementation of the Act.

2) Main provisions of the Act

i. Section 3: Forest rights

- Provides Forest rights to forest dwelling Scheduled tribes and other traditional forest dwellers who have been who have been primarily residing and depending on forest land for three generations (one generation as defined in the FRA is 25 years) and were in actual occupation of forestland before the cut-off date 13 December 2005 to secure individual and community tenure including the right to hold and live in the forest land under individual or common occupation for habitation or self-cultivation for livelihood.
- Provides Community rights
- Right of ownership, access to collect, use and dispose of minor forest produce which has been traditionally collected within or outside village boundaries
- Other community rights or uses or entitlements such as fish etc.
- Right of conversion of pattas or leases or grants issued by any local authority or state government on forest land to titles
- Right of settlement and conversion of all forest villages, old habitations etc., to revenue villages

- Right to protect, conserve, regenerate or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use
- Right of access to biodiversity and community rights to intellectual property and traditional knowledge related to biodiversity
- Any traditional rights customarily enjoyed except hunting, trapping or extracting any part of body of species of wild animals
- Right to in situ rehabilitation including alternative land in cases where they have been illegally evicted or displaced from forest land without receiving their legal entitlement to rehabilitation prior to 13th December 2005
- Notwithstanding anything contained in Forest Conservation Act, 1980, the central government shall provide for diversion of forest land for facilities managed by the government like building schools, hospital/dispensary, anganwadis, fair price shops etc. which involve felling of trees not exceeding 75 trees per hectare. This diversion will be allowed only if it is less than 1 hectare and is approved by Gram Sabha.

ii. **Section 4: Recognition, restoration and vesting of forest rights**

- The central government recognizes and vests forest rights in the forest dwelling Scheduled tribes/other traditional forest dwellers in states or areas where they are declared as Scheduled Tribes in respect of all forest rights mentioned in Section 3.
- The forest rights recognized under this act in critical wildlife habitats of National Parks and Sanctuaries may subsequently be modified or resettled, provided that no forest right holders shall be resettled or have their rights affected unless certain conditions are satisfied. Some of these conditions are: state government has concluded that other options like co-existence are not possible; free and informed consent of Gram Sabha has been obtained in writing;

resettlement package provided secure livelihoods etc.

- The critical wildlife habitats from which right holders are relocated for conservation purposes cannot be subsequently diverted by the government/any entity for any other purpose.
- The recognition and vesting of forest rights under this act shall be subject to the condition that the Scheduled Tribes, tribal communities, traditional forest dwellers had occupied the land before 13th December 2005.
- Rights conferred shall be heritable but not inalienable or transferrable.
- No member of forest dwelling Scheduled tribe, traditional forest dwellers shall be evicted or removed from forest land under his occupation till the recognition and verification process is complete.
- Forest rights recognized under this act shall not exceed 4 hectares and shall be restricted to area under actual occupation.
- The holders of any forest right, Gram Sabha village level institutions in areas where they are holders of forest rights are empowered to protect forest, wildlife and biodiversity; ensure adjoining catchment areas, water sources, and ecological sensitive areas are protected, ensure habitat is protected from any form of destructive practices affecting cultural/natural heritage and ensure any decision taken by the gram Sabha to regulate access to community forest resource and stop any activity that adversely affects wildlife, forest and biodiversity are complied with.

iii. **Section 6: Authorities**

- Gram Sabha shall be the authority to initiate the process for determining nature and extent of forest rights. This will be forwarded to Sub Divisional Level committee
- The state shall constitute Sub Divisional Level committee to examine resolution of Gram Sabha and prepare record of forest rights and

forward it to District Level Committee for final decision.

3) Critical Analysis of Act with respect to protection of forests, wildlife and biodiversity

- Even before the notification of the Act and the Rules and the operationalization of the term 'critical wildlife habitat', MoEF issued guidelines to notify critical wildlife habitat. It then identified 'critical tiger habitats' in the core areas of 28 existing and eight proposed tiger reserves under the amended Wildlife Protection Act, which mandates the declaration of critical tiger habitats that can then be made inviolate. As a result, these tiger habitats are excluded from the purview of the Act and the residents of the 273 villages, which are included in the areas notified as critical tiger habitats, cannot benefit from the provisions of the Act.
- The Act provides grants of land to forest dwellers – in situ – to the extent of their present holding but not exceeding four hectares. Here lies the major problem with this legislation. Over the last three decades, habitat fragmentation has been identified as the single largest threat to biodiversity. With fragmentation, forest edges come more and more into contact with human activity resulting in degradation. The FRA has set the stage for another round of massive fragmentation
- The last-minute addition of a nebulous category of people termed as Other Traditional Forest Dwellers will seriously affect the bona fide claims of tribal people. Weak procedures prescribed for identifying beneficiaries will be exploited to the hilt by powerful land-grabbers. As in the past, many tribal beneficiaries will be short-changed, while mining and logging companies could enter previously protected areas piggy-backing on land given to forest dwellers and affect conservation of forests, wildlife and biodiversity.
- The Act is also totally silent on the relationship of the recognized rights with other

existing laws or how the management of community forest resources by Gram Sabhas will impact existing forest department working plans.

- Due to the legal and technical grounds on the control and management of land by both Revenue and Forest departments, only the maps for the lands occupied and cultivated within the revenue boundary were prepared while the areas under Reserve Forest (RF), Protected Forest (PF), national parks, sanctuaries, etc., were excluded. This was observed only in case of individual rights over forestland, while the rights over Community Forest (CF) were not given much attention for a long time. The Act has been largely considered as land rights over a piece of forest land negating the Community Forest Rights (CFR).
- The FRA does not go along well with the other existing Acts such as the Wild Life Protection act (WLPA), Forest Conservation Act (FCA), etc. Hence, the restrictions
- Provided in these legislations will continue and may even override the Forest Rights Act.
- Ecological security is also a matter of concern. The Act recognizes the forest dwellers' right to practice agriculture in and around forests. The impact of this activity on local biodiversity will be significant. The ministry acknowledges that plantation of exotic species and other such activities detrimental to biodiversity has been witnessed before, but then, complete restriction on such livelihood-related practices is not possible.

Sources: Lovleen Bhullar, 'The Indian Forest Rights Act 2006: A Critical Appraisal', *4/1 Law, Environment and Development Journal* (2008), p. 20,
<http://www.conservationindia.org/resources/facts-about-the-forests-rights-act>
<http://www.cess.ac.in/cesshome/wp/CESSWorkingPaper-126%28RULNR-20%29.pdf>

IV. Snapshots: Environment news

IIT experts list pollutants affecting Golden Temple

Main building of the Golden Temple in Amritsar is adversely affected due to pollution caused by industries, vehicles, generators, 'tandoors' (clay ovens) of restaurants around the shrine and burning of crop stubble by farmers. The issue had reached the court after a letter in that regard was written by an individual. Taking suo motu cognizance of the letter, the high court had issued a notice to the Punjab government seeking its response on the issue. The court had asked the state to conduct a study thereafter, Punjab Pollution Control Board (PPCB) tied up with IIT, Delhi for the

Toxic 'e-waste' dumped in poor nations, says United Nations

Millions of mobile phones, laptops, tablets, toys, digital cameras and other electronic devices bought this Christmas are destined to create a flood of dangerous "e-waste" that is being dumped illegally in developing countries, the UN has warned. The global volume of electronic waste is expected to grow by 33% in the next four years, when it will weigh the equivalent of eight of the great Egyptian pyramids, according to the UN's Step initiative, which was set up to tackle the world's growing e-waste crisis. Last year nearly 50m tonnes of e-waste was generated worldwide – or about 7kg for every person on the planet. An indication of the level of e-waste being shipped to the developing world was revealed by Interpol last week. It said almost one in three containers leaving the EU that were checked by its agents contained illegal e-waste.

57 mines booked for violating forest department norms in Karnataka

The Forest department has booked 57 mining companies, including the State-owned Mysore Minerals Limited (MML) and National Mineral Development Corporation (NMDC), accused of extracting ore illegally and damaging the forest land by not disposing of the mining waste in the prescribed manner. Cases were also slapped against the companies owned by former minister Janardhana Reddy and Hospet MLA Anand Singh. Cases against 28 mining companies were filed based on the Lokayukta report, while the other 29 companies were booked, taking cue from the CEC report. Eighteen of the 57 mining companies are located in Sandur taluk, while 10 companies accused of violating forest norms are based in Hospet taluk.

Ageing dams not being decommissioned, reveals International Rivers report

A report by International Rivers, an NGO campaigning against destructive dam projects worldwide, has highlighted the absence of policies regarding decommissioning of old dams in India which, it says, is crucial for restoration of damaged ecology. The International Rivers report states: 'Estimates reveal that [in India] around 100 large dams are more than 100 years old and more than 400 large dams between 50 and 100 years.' The Central Water Commission (CWC) and the Central Electricity Authority (CEA) are of the opinion that a dam is a permanent structure that does not need to be decommissioned, even though many old dams have developed leaks and fissures.

2013 is seventh hottest year, rising seas worsen typhoon

This year is the seventh warmest since records began in 1850 and rising sea levels caused by climate change are aggravating the impact of storms such as Typhoon Haiyan in the Philippines. More greenhouse

gases in the atmosphere meant a warmer future, and more extreme weather, was inevitable, WMO Secretary-General Michel Jarraud said in a statement during November 11-22 climate talks among almost 200 nations in Warsaw. The WMO said the first nine months of the year tied with the same period of 2003 as seventh warmest, with average global land and ocean surface temperatures 0.48°C (0.86°F) above the 1961-1990 average.

Hitting EU green energy goals 'would save billions, boost GDP'

Hitting energy and environment targets for 2030 under discussion in the European Commission would save up to 35 billion euros per year in health costs as air pollution declines, EU sources said. Policymakers are considering targeting a cut of around 40 percent in greenhouse gas emissions and raising the proportion of energy generated by renewables to 30 percent. The estimated boost to annual gross domestic product would be at just over 0.5 percent.

Hydel projects of up to Rs 1,000 cr to be exempted from CEA clearance

The power ministry is set to authorise state governments to undertake an appraisal of such hydropower projects on their own. Sources said the nod has already been given for the proposed policy change and the same may be notified soon. Currently, exemption is available only to projects with investment requirement of up to Rs 500 crore as per the existing policy. The proposed policy change will help states, including Himachal Pradesh, Uttaranchal, Arunachal Pradesh, Sikkim and J&K to expedite implementation of hydropower projects.

18,077 ha forest land diverted in Odisha for mining

Keonjhar, Sundergarh, Angul and Koraput see maximum diversion. As many as

18077.329 hectares (ha) of forest land have been diverted for mining activities in the state till June 2013. "About 52040.805 ha of different types of forest land are leased out in the mining areas. On approval of the Union Ministry of Environment and Forest, about 18077.329 hectares of forest land are diverted in accordance with the Forest Conservation Act, 1980," state Forest and Environment Minister, Bijayshree Routray said in a written reply to the state assembly.

Quarrying to be banned in 5-km radius of dams

The State government will ban stone quarrying in a five-km radius of dams and reservoirs in Karnataka. Law and Parliamentary Affairs Minister T B Jayachandra told the Assembly on Wednesday that an order would be issued to this effect.

Illegal sand mining 'unstoppable' in Tapi

Sand mining mafias are not deterred by the raids and continue to carry on nonchalantly with illegal mining in Tapi riverbed in Surat district. Revenue and mining department officials in November 2013 had seized their 61 trucks from Tapi riverbed in four raids, but this has hardly affected the illegal mining business here, sources said.

Mines pose threat to Tipeswar sanctuary

In blatant violation of forest and wildlife laws, stone quarrying within 1.5km from its boundary poses serious threat to Tipeswar Wildlife Sanctuary, 180km from here in Yavatmal district. The quarries fall in the eco-sensitive zone of the sanctuary. According to Tipeswar range forest officer (RFO), four stones quarries have been operating near Kopamandvi beat adjoining Tipeswar since 1988 and 2007.

Effluents from Hutti Mines polluting water table: Panel

A State government-appointed expert committee has found unscientific disposal of poisonous wastes by the State-owned Hutti Gold Mines to be the main reason for excess arsenic content in groundwater in four taluks of Raichur and Yadgir districts of the State. The four-member committee headed by Dr H Sudarshan has found that about 63 drinking water borewells in Devadurga, Lingasugur, Manvi (Raichur district) and Shorapur (Yadgir) taluks have been contaminated by excess arsenic content.

NMDC under lens for pollution in Chhattisgarh

The company has been accused of polluting two important rivers of Bastar namely Dankani and Shankani. Chhattisgarh government would take up fresh survey work on the rivers in Bastar in which the National Mineral Development Corporation (NMDC) was allegedly flowing industrial waste causing pollution.

10 units to get emission monitoring system

Launching a pilot project in Gujarat, Gujarat Pollution Control Board (GPCB) is setting up Continuous Emission Monitoring System (CEMS) at 10 places in Pandesara, Sachin and Surat city. These CEMS will be fitted in the chimneys of dying mill units and connected with GPCB office in Surat, its Control room at Gandhinagar and even with Central Pollution Control Board (CPCB) office in Delhi. The ten systems will be operational by January 1. In the second phase around 150 industrial units would be covered.

Government notifies Navegaon-Nagzira as 5th tiger reserve

Maharashtra government on Thursday issued notification of Navegaon-Nagzira Tiger Reserve (NNTR). This is the fifth Tiger Reserve in the state after Melghat, Tadoba, Pench and Sahyadri. The 656.36 sq km reserve comprises Navegaon National Park

(129.55 sq km), Navegaon Wildlife Sanctuary (122.75 sq km), Nagzira Wildlife Sanctuary (152.58 sq km), New Nagzira Wildlife Sanctuary (151.33 sq km) and Koka Wildlife Sanctuary (100 sq km).

Jaipur's green cover far below Master Plan needs

Jaipur is not in the pink of health when it comes to greenery. The city has only 11.3% of its area under green cover which falls woefully short of the mandatory 20% required as per the Master Plan 2025.

Change in NCR plan threatens Mangar grove

One of the last patches of pristine forest land adjoining Delhi may be lost soon if the draft regional master plan for the national capital region (NCR) 2021 is passed in its current form—a “limit of 0.5% on constructions” in the natural conservation zones such as Aravalis has been deleted from it. The minutes of the 61st meeting of NCR Planning Board suggest that the Haryana government itself has pitched for removal of this restriction and inclusion of guidelines to control development activities in such eco-sensitive zones. This will open up places like Mangar for real estate development, possibly destroying one of the most important groundwater recharge zones near Delhi.

SC reserves decision on environment regulator

The Supreme Court on Monday reserved its decision on setting up of an environment regulator for evaluating projects, enforcing environmental conditions for approvals and imposition of penalties. A special green bench headed by Justice AK Patnaik while reserving its judgment on the issue said the government should set up an environment regulator till a new law is in place and also a regulatory mechanism to check irregularities.

Source: <http://www.indiaenvironmentportal.org.in>

V. State in Focus: Odisha

1) Odisha: Environment scenario

Odisha is the 9th largest state by area in India, and the 11th largest by population. According to the 2011 census of India, the total population of Odisha is 41,947,358. Total forest area of the state is 58,135 sq. Kms i.e. 37.3% of the geographical area of the state. Out of this 48838 sq. km is presently under forest cover i.e. 31.4%, which includes 20,866 sq. km open forest. It is part of the Chandragiri-Pottangi mountain system. The state has 480 km long shoreline suitable for marine fisheries. The rich mineral resources of the State like coal, bauxite, alumina, chromite, salt, resins etc., are potentially very good sources of income.

(a) Air pollution

Air pollution (PM₁₀ concentration) and respiratory morbidity among children is a major problem found in Angul-Talcher in Orissa. It is also observed that the average concentration of particulates in the area is much higher in comparison to both WHO and Indian Standards. Talcher, which is famous for its coal deposits, has attracted rapid industrialization therefore the area has emerged as a big source of coal and thermal power in the country. Extensive mining, power plants, industries and growing urbanization has seriously damaged the environment in the area. Eco-degradation in the form of degraded and denuded forests, eroded soil, impure air and water, large scale land conversion is observed. The area is severely polluted from all sources air, water, and solid waste to a very high extent. The large quantities of SPM, SO₂, Nox, leave a greater extent of damage. Since majority of industries are thermal power plants and coal based, all the industries found in the area come under the list of 17 highly polluting

industries classified by the Central Pollution Control Board (CPCB) and the Government of India. The pollution problem has become so high that the area has attracted attention from within and outside the state and has been branded as a problem area and one of the twenty-four important hot spots of industrial pollution in the country. Air and water pollution from mining in Orissa in eastern India is endangering tribal as never before. An alumina refinery operated by a subsidiary of UK-based FTSE 100 Company Vedanta Resources in Orissa, is causing air and water pollution that threatens the health of local people and their access to water

(b) Water Pollution

Municipal sewage is considered to be the main pollutant of water. Most of the sewage receives no treatment before discharge in all the cities of Orissa. The cities like Bhubaneswar, Cuttack, Rourkela, Sambalpur and Berhampur generate approximately 10, 7.5, 6.0, 3.075 and 5.0 lakh litres of sewage effluents respectively every day. These effluents are discharged into the river Mahanadi and Kathajodi in Cuttack, Kuakhai and Daya in Bhubaneswar, Brahmani in Rourkela, Mahanadi at Sambalpur and Rushikulya at Berhampur. The effluents contain heavy metals like lead, chromium, cadmium, zinc and mercury. Besides, the sewage effluents are rich with harmful bacteria and viruses which contaminate the river water. While drinking this contaminated water, people suffer from serious diseases. In Orissa, there are paper industries at Rayagada, Chowdwar, Jaypore, Balasore and Brajarajnagar. The paper industries discharge effluents to the rivers like Rushikulya, Mahanadi, Kolab and Budhabalanga. Discharge of effluents from smelter plants of NALCO to the water bodies at Angul cause flouride pollution in drinking water of wells and tanks through lateral and vertical movement in

ground. The ground water of open wells near the plants was detected containing high amounts of Chloride. The use of various types of pesticides and insecticides in agriculture cause water pollution. Death of aquatic animals has been reported in intensive rice growing areas of Orissa due to application of granular pesticides like Furatox and Furadon.

Industrial wastewater enter river Brahmani primarily at two regions that is in Rourkela and Talcher. In Rourkela the wastewater goes to Brahmani, from for the Rourkela Steel Plant. Similarly in Talcher region the industrial wastewater is carried through the Tikira river and Nandira river to Brahmani. The industrial intervention in other rivers like Rushikulya and Nagavali are also found to be significant. This is because of leanflow in the river and potential risk of toxic chemical presence in the industrial effluent. Wastewater from industries is discharged mainly to different surface water streams. In all the stretches of rivers where the water quality is close to the Designated Best Use quality limits, BOD has been found to be the only critical parameter. This indicates that contamination of river water due to chemicals is rather insignificant. Significant presence of BOD indicates that the major interventions are of anthropogenic in nature.

(c) Threat to Biodiversity

A number of factors are posing threat to biodiversity of Orissa. The forests of the state are vulnerable to a host of natural and man-made factors such as insect and fungal attack, diseases, grazing, forest fires etc. Rapid industrialization clubbed with semi-urbanization has increased the demand for forest materials particularly timber. The emergence of new industries is posing threat to the flora and fauna, since forest area are being diverted for non-forestry purposes. Large forest areas in the state are subject to encroachments. Many forest areas have poor regeneration. Shifting cultivation is also putting pressure on the biodiversity. Droughts & floods

are frequent in the state causing threat to biodiversity. Poaching of wild animals is also affecting the biodiversity status. Increase in cattle population results in overgrazing. Orissa harbors very rich vertebrate and invertebrate fauna. As per IUCN Red Data Book / Schedule-I of Wildlife Act, 1972, 17 species of reptiles, 15 species of birds and 22 species of mammals are found in Orissa which are threatened taxon of wildlife. Similarly, 85 species of plants found in Orissa are under threatened taxon. Due to plentiful availability of mining minerals large areas, particularly the forest areas, have been leased out for mining in the past few decades. This is putting tremendous pressure on the rich biodiversity of the state. Shifting cultivation, practice, commonly known as 'Podu', is prevalent in some tribal districts of the state, which is putting pressure not only on the biodiversity of the affected areas but also on soil and water realms, thus threatening the surrounding fauna and flora as well.

(d) Mining impacts

The state of Orissa continues to face violation of environmental laws by mining companies. Orissa is one of the most mineral-rich states in the country. It has more than half of India's bauxite reserves and is the largest producer of aluminium in the country. Like its mineral-rich neighbors Jharkhand and Chhattisgarh, Orissa is also encouraging steel, aluminum and power companies to set up factories, promising them mines to extract iron ore, bauxite and coal. This is simply increasing threat to Environment elements. Excessive mining has had its fallout on the environment. It also involves excavations of land, loss of soil, degradation/disfiguring of surface area and deforestation. Valuable topsoil and usable land is lost forever, which cannot be fully recovered. Natural drainage system and ground water table is disturbed which not only affects the inhabitants in close proximity but also people living in faraway places. The entire forest cover around Keonjhar, where most of the mining is

done, is now shrouded in a blanket of soot and dust. Several mining companies have encroached on forest land and disturbed the elephant corridor to the extent that the animals are being forced out of the forest. They are entering human habitats and getting involved in bloody skirmishes. The problem is being compounded by the increased frequency of trains that carry iron ore and other minerals.

(e) Soil Pollution

Soil pollution in Orissa is increasing day by day resulting in poor crop stand along with health hazards of human beings and animals. Major sources of soil pollution in Orissa are overburdens of mines, Industrial effluents, Sewage Sludge and Fertilizers and pesticides application. Ores and minerals upon weathering release heavy metals such as aluminum, chromium, cadmium, iron, lead, manganese, nickel and zinc. In process of opening the mines, the ores and minerals are exposed. The soil around the mining area is polluted by heavy metals of aluminum, chromium and cadmium. The heavy metal manganese pollutes the soil around the mining area. The district of Sundargarh has 500 ha. of lead mines. Lead, a dangerous heavy metal, contaminates the soil and vegetation of this area. Coal, an important mineral of Orissa, is present in the districts of Dhenkanal and Sambalpur occupying an area of 11,726 ha. Coal containing the heavy metals like Zinc, Cadmium, Lead and Nickel pollute the soils of nearby area. The industries discharge large quantities of effluents industrial wastes as well as by-products to the environment. The steel and allied industries, dispose huge amounts of basic slags. Disposal of city sludge to environment and overuse of agrarian chemicals have made precious soil polluted.

(f) Urbanization

The trend of urbanization in Orissa, India, it is noted that during the last 90 years (1901-91) urban population has increased almost 14

times. Such growth has been due to the large rural- urban migration, in which the inter-district and inter-state movement of the migrant population into urban areas contributed 41.25% to the total population in 1971, 46.57% in 1981 and 40.52% in 1991. By comprising the results of the development with the levels of urbanization for individual district of state cities, it is observed that there is a greater matching between the levels of development with respect to the levels of urbanization. However, urban population growth causes problems such as development of urban slums. The pressure of slums on urban environment is increasing as it is viewed as "invasion" of the urban areas by "the masses" and considered as social evil that has to be eradicated. Such perceptions lead to further degradation of slum areas adversely affecting the urban environment. The slums build up pressure on urban land utilization, infrastructure and basic services. The conflict between slum population and general population increases as the people living in slums make efforts to grab access to the towns infrastructure and services, which are not designed for them. Due to non-recognition of contribution of informal economy of slum dwellers, urban policies are not addressed specifically to the urban poor. This results in negative impacts on all sectors of urban development degrading the urban environment. Due to absence of holistic and sustainable policies of the government on slum development, responses from the slum settlements deteriorate the quality of urban people as well as urban ecology.

(g) Deforestation

The Nawarangpur district, Orissa, a tropical region with Sal mixed moist deciduous and Sal mixed dry deciduous forests, has been affected by extensive deforestation. From 1973 to 1990, more than 888.6 km² of dense forest and from 1990 to 2004, 429.7 km² were found to have been deforested. The analysis of results

identified the reduction in area of dense forest and increase of agricultural land, degraded areas of abandoned agricultural land and unproductive scrub. There is an urgent need for rational management of the remaining forest for it to be able to survive beyond next decades. From this study it can be concluded that temporal changes and the factors affecting these changes should be determined for sustainable management of natural resources.

(h) Municipal Solid Waste Management

The average solid waste generation in Orissa is about 0.35-0.40 Kg per person per day. Efficiency of collection, transportation and processing of solid waste is very low. Unscientific haphazard land filling creates environmental problems. Uncollected garbage finds its way into open drains, which become blocked and thereby promote breeding of mosquitoes. Garbage is transported in open to the land filling sites, spreading pollution along the routes of transportation. Leachate from decomposing and putrefying garbage percolate into soil and nearby water sources, and the resultant contamination of food, water and soil could be responsible for the transmission of many diseases. High pressure on the environment is generated mainly because of low efficiency of service and productivity of the system. Its impact is felt at social, economic, and environmental sectors of urban areas.

(i) Industrial pollution

CPCB carried out a comprehensive assessment of environmental quality in industrial clusters across the country. This assessment covered extent of pollution of water, air and land. The assessment showed that Angul Talcher (Orissa) was ranked 7th, Ib Valley (Orissa) 28th,

Paradeep (Orissa) 44th out of the 88 industrial clusters studied.

2) Laws and Policies

The principal laws on environment in force in Orissa state are given below-

- The Orissa Forest (Amendment) Act 1982
The Elephants Preservation Act, 1879
- The Wild Birds & Animals Protection Act, 1912
- The Orissa Communal Forest and Private Lands (Prohibition of Alienation) Act, 1948
The Orissa Kendu Leaves (Control of Trade) Act, 1961
- The Orissa Forest Act, 1972
- The Wildlife (Protection) Act, 1972
- The Forest (Conservation) Act, 1980
- The Orissa Forest Produce (Control of Trade) Act, 1981
- The Orissa Saw Mills and Saw Pits (Control) Act, 1991
- The Orissa Saw Mills and Saw Pits (Control) Amendment Act, 2006

3) Environment Sustainability Index (ESI)

ESI collects and collates a huge amount of data and converts into interpretable indices, to create more awareness of environmental sustainability among the practitioners, researchers and society as a whole. Odisha



ranks on 11 out of 28 states in India in terms of ESI.

Source: <http://www.greenindiastandards.com/uttar-pradesh.php?stateid=28>,
http://cpcb.nic.in/divisionsofheadoffice/ess/NewItem_152_Final-Book_2.pdf
<http://www.cesorissa.org/PDF/Newsletter9.pdf>
http://orissa.gov.in/e-magazine/Orissareview/jan2006/engpdf/Water_Pollution.pdf
[Orissa SoE report](#)

VI. Audit Report: Report of the Comptroller and Auditor General of India on Compensatory Afforestation in India

1) Background

Forests are a vital component to sustain the life support system on Earth. Several laws and court judgements govern the use and protection of forest land in India. The Supreme Court of India directed in October 2002 that a 'Compensatory Afforestation Fund' (CAF) shall be created in which all the monies 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. CAF was to compensate for the loss of tangible as well as intangible benefits from the forest lands which were diverted for non-forest use. Such funds were to be used for natural assisted regeneration, forest management, protection, infrastructure development, wildlife protection and management, supply of wood and other forest produce saving devices and other allied activities. The Court observed that the fund would not be part of general revenues of the Union, of the States or part of the Consolidated Fund of India. Ministry of Environment and Forests (MoEF) notified the Compensatory Afforestation Management Funds Management and Planning Authority

(CAMP) in April 2004 for the management of the compensatory afforestation fund.

2) Audit objectives and criteria

The objectives of the compliance audit on Compensatory Afforestation in India were to examine:

- whether the diversion of forest land for non-forest use was permitted as per extant laws and all conditions in this regard were complied with;
- whether measures taken for conservation, afforestation and preservation of forest lands consequent to diversion of portions of these lands for non-forest use were as per provisos of extant legislation, rules and Supreme Court judgments in this regard;
- whether the collection, utilisation, monitoring, accounting and the arrangement for safeguarding of compensatory afforestation funds was in compliance with applicable legislation, rules and Supreme Court judgments permitting diversion of forest land for non-forest purposes; and
- Whether proper financial procedures had been followed in investing funds.

The list of legislations, rules, judgements and directions regulating the collection and utilisation of Compensatory Afforestation Fund that were referred to in the course of this compliance audit are listed below:

- i. Forest (Conservation) Act, 1980 as amended in 1988.
- ii. Forest (Conservation) Rules, 2003 as amended in 2004.
- iii. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.
- iv. Wild Life (Protection) Act, 1972.
- v. Indian Forests Act, 1927.

vi. Supreme Court orders on the subject issued from time to time.

vii. Various guidelines and orders issued by MoEF from time to time, as per directives of the Supreme Court of India

3) Audit findings

- As per information furnished by the Regional Offices of MoEF (ROs), total forest land diverted during the period 2006-12 was 1, 14,877.26 hectare. Non-forest land measuring to 1, 03,381.91 hectare was receivable after excluding exempted categories but against this only 28,085.90 hectare was received. Hence non-forest land measuring to 75,905.47 hectare was not received which was 73 per cent of receivable non-forest land. It was observed that neither the State Nodal Officer/ PCCF nor MoEF ensured the receipt of non-forest land and the final clearances were given by the committee. Thus, MoEF failed in ensuring the compliance of its own regulatory provisions for forestry clearance.
- It was observed that there was lack of a system of periodic reconciliation of data between the two authorities which raises doubts on the reliability of the data. In the absence of authenticated data and non-production of proof of mutation/ transfer of identified land in favour of Forest Department, it cannot be assured that the final clearances were given only on the fulfilment of all the stipulated conditions and the forest lands have been appropriately safeguarded.
- In the scrutiny of records of MoEF it was observed that 1,022 proposals involving forest land measuring to 2.54 lakh hectare which had not complied with the first stage conditions for more than five years and were not rejected/ revoked.
- As per Section 3A of the Forest (Conservation) Act, 1980, whoever contravenes or abets the contravention of any provisions of Section 2, is punishable. The RO Bhubaneswar revealed that as per the monitoring reports of

the RO the user agencies were utilising forest land in excess of the approved area. No remedial action was taken by MoEF or any penal provision under Section 3A of the Forest (Conservation) Act, 1980 was invoked.

- It was observed that, despite the orders of the Supreme Court on the subject no time bound program for eviction of encroachments was devised by MoEF/ RO. The State Forest Departments also did not prepare a comprehensive list of encroachments of the forest land in order to proceed with the implementation of the orders of the highest Court of the country.
- While granting final approval, it should have been ensured by MoEF that the environment clearance certificate had been obtained. It was observed that even after reporting by the Regional offices, MoEF did not initiate any action against the defaulting agencies and granted final clearance without ensuring environmental clearance.
- During test check of records of RO Bhubaneswar it was observed that in monitoring reports on four mining leases, it was reported that the mining activity in the project was affecting the flora & fauna, forest and wildlife adversely. However, as of December 2012, no action in this regard had been taken by MoEF, despite, adverse comments in the monitoring report in these projects.
- MoEF allowed the diversion of the forest land of 100 hectare for mining to M/s Elray Minerals & Company in an arbitrary manner flouting the general and specific provisions of the forestry clearances overriding the recommendations in the site inspection report of its Regional Office not to divert the fresh area for mining.
- During test check of records of ROs various irregularities were noticed in cases of

diversion of forest land to user agencies viz. illegal mining, noncompliance of conditions of in principle approval and improper monitoring of the projects.

- Audit also observed instances where express orders of the Supreme Court were flouted by Pollution Control Board in Andhra Pradesh where the diversion of forest land in National Parks and Sanctuaries was allowed without seeking prior permission of the Supreme Court. In five other cases unauthorised renewal of mining leases in Rajasthan and Odisha were noticed, where the approval of Central Government was not obtained by the State Government as was directed by the Supreme Court.

- In case of non-availability or short availability of forest land, to be duly certified by the Chief Secretary, compensatory afforestation was to be undertaken over the degraded forest twice the extent of the forest land diverted. It was observed that compensatory afforestation was allowed over an area of 75,905.47 hectare without any certificate of the Chief Secretary, in almost all the states except Delhi, Himachal Pradesh, Meghalaya and Sikkim. Only in two State/ UTs viz. Chandigarh and Uttarakhand, equivalent or more non forest land was received.

4) Recommendations

- MoEF should make a determination of lapses and fix responsibility of officials in MoEF/ State Forest Department for the operation of mining projects without environment clearance, inspite of the same having being pointed out by its Regional Offices.
- MoEF should lay down clear cut process for taking suitable steps on the adverse comments pointed out during monitoring of projects otherwise the monitoring reports would be rendered meaningless.

http://saiindia.gov.in/english/home/Our_Products/Audit_Report/Government_Wise/union_audit/recent_reports/union_compliance/2013/Civil/Report_21/chap_1.pdf

VII. International Audit Report: Australia: Indigenous Protected Areas

1) Background and purpose of audit

The National Reserve System (NRS) is Australia's terrestrial network of protected areas. The Australian Government's aim in supporting the NRS is to secure the long-term protection of a representative sample of Australia's bioregions and the plants and animals they support. The NRS is made up of national parks, Indigenous lands and reserves established and managed in perpetuity through partnerships between the Australian Government; state, territory and local governments; Indigenous and private landholders and nongovernment organisations. The NRS is one of the six priority areas of the Australian Government's \$2.25 billion Caring for our Country (2008–13) initiative (CfoC). The goal of CfoC is to achieve an environment that is healthier, better protected, well managed, resilient, and provides essential ecosystems in a changing climate. Expanding the NRS is a key element of this policy aim, with the objective of increasing the size of the NRS by 25 million hectares, or 25 per cent, by 2013.

Various mechanisms exist for incorporating areas into the NRS, including outright purchase of properties by governments and other organisations as well as the development of covenants, incentives, contracts and conservation agreements with individuals and conservation and philanthropic groups. Australia's Strategy for Australia's National Reserve System 2009–2030 (the Strategy) describes the direction, strategic approach and priorities for the expansion and effective management of the system of protected areas to meet NRS and

relevant international conservation goals and standards.

The Indigenous Protected Areas (IPA) program was implemented in 1997 as a vehicle to support Indigenous land management and to increase the size of the NRS and improve its comprehensiveness, adequacy and representativeness. Similar to other contributing partners to the NRS, Indigenous communities commit to manage their land in perpetuity to maintain biological diversity according to one or more of the six internationally recognized land management categories defined by the International Union for Conservation of Nature (IUCN). Unlike other contributors to the NRS, Indigenous communities provide this commitment through a voluntary, rather than a statutory agreement, with the Australian Government. This commitment is made through a Plan of Management developed by the community for their land and endorsed by Traditional Owners. As at June 2008, the IPA program had contributed 20.5 million hectares—more than half the contribution to the NRS in this period. The development of the CfoC initiative in 2008 led the Australian Government to increase funding for the IPA program. An additional \$50 million was provided to enable the inclusion of between eight and 16 million hectares of Indigenous land into the NRS, and the use and reinvigoration of traditional ecological knowledge to support biodiversity conservation in newly initiated IPA projects.

2) Audit objective, scope and criteria

The audit objective was to assess the effectiveness of SEWPaC's management of the IPA program in relation to the two primary targets of the IPA program under the Caring for our Country initiative (2008–13) which are to:

- expand the contribution of the IPA program to the NRS by between eight and 16

million hectares (an increase of at least 40 per cent), of which 1.8 million hectares are to be in northern and remote Australia; and

- ensure the continued use, support and reinvigoration of traditional ecological knowledge to underpin biodiversity conservation in the Plans of Management of 32 newly initiated projects.

3) Key findings

- Management of the IPA program has, to date, facilitated the expansion of the NRS through the IPA program, consistent with national criteria and international management standards, and has positioned the department to meet the outcomes set by government for the program for the period to 2013.

- The rapid expansion of the IPA program made possible by the increased funding under CfoC has resulted in significant growth in the number of declared Indigenous protected areas, as well as consultation projects that are likely to progress to declaration.

- Against the overall targeted increase of between eight and 16 million hectares in the period 2008–2013, some 5.4 million hectares had been added to the NRS through the declaration of Indigenous land as protected areas by July 2011. This is less than the annualized target of two million hectares per year, or six million hectares over the first three years of the CfoC. However, if the 38 projects in the consultation phase of the program move to declaration within the established program timeframe, several declarations of land as protected areas are likely in 2011–12 and 2012–13, in which case it is likely that the targeted increase in the size of the NRS will be met.

- To achieve the four-year target of the use of traditional ecological knowledge in the Plans of Management of 32 newly initiated IPA projects over four years, the approval of an additional 13 Plans of Management is necessary prior to June 2012.

- Although the program is currently behind its overall targets, the growth in the number of consultation projects indicates a strong potential trajectory of growth overall. With the increased funding under the CfoC initiative, the intake of new consultation projects almost doubled from nine new projects in 2007, to 16 in 2008, followed by sustained growth of 14 in 2009 and 15 in 2010.
- The future and ongoing challenge for the IPA program is to be able to identify and fund consultation projects that progress to declaration as protected areas, as well as to identify strategies to support work on declared Indigenous protected areas to ensure the maintenance of national and international land management standards within the NRS.
- The IPA Program engages with Indigenous Australians through a strong traditional and cultural relationship with the land, and provides a strategy that supports their customary responsibility to take care of country while delivering land management services for the Australian Government. Taking advantage of this shared interest represents one policy model of co-production.
- Since the establishment of the IPA program, Indigenous landowners have become the single largest contributor of land to the NRS. The contribution of this land is, in part, a result of capacity to effectively engage with Indigenous landowners to support their customary responsibility to care for their country consistent with national and international guidelines.

4) Recommendations

To facilitate the continued contribution of Indigenous owned land to the National Reserve System post 2013, the ANAO recommends that the implementing agency develop options for future funding, including options that would reduce, over time, the dependence of Indigenous protected areas on Australian Government funding.
Response: Agreed.