

* Conservationist joins panel on elephant corridor case

- Tamil Nadu Govt had notified an 'elephant corridor' through the Nilgiri biosphere reserve
(largest protected area in India)
 - ↳ to protect the migratory path of the animals
 - ↳ spans across TN, Karnataka & Kerala.
- Location of the corridor
 - ↳ in ecologically fragile Sivur plateau
 - (connects Western & Eastern Ghats)
 - sustains elephant populations & their genetic diversity.
 - ↳ South-Western side of corridor ⇒ Nilgiri Hills
 - ↳ North-Eastern " " ⇒ Moyar River valley
 - ↳ Elephants cross plateau in search of food & water
- Declaration of elephant corridor
 - ↳ so Nilgiris collector sealed buildings falling in the corridor.
 - ↳ But the landowners filed a case in SC alleging arbitrary variance in acreage of corridor.
- SC judgment
 - ↳ It is state's duty to protect keystone species like elephants
 - ↳ It also constituted a 3-member Technical Committee of the National Elephant-2 Action Plan to hear complaints by land owners.

NITI Aayog seeks to track impact of green verdicts

The NITI Aayog has commissioned a study that seeks to examine the "unintended economic consequences" of judicial decisions that have hindered and stalled major infrastructure projects on environmental grounds.

The study to examine the following five projects that have been "impacted" by judicial decisions of the Supreme Court or the National Green Tribunal.

- Construction of an airport in Mopa, Goa
- Cessation of iron ore mining in Goa
- Shutting down of the Sterlite copper plant in Thoothukudi
- The others are decisions by the NGT involving sand mining, and construction activities in the National Capital Region.

Concerns with respect to judicial interventions:

- There has been increased judicial activism by courts and tribunals when it comes to environmental v/s developmental issues.

•The judiciary's intervention are marked by complete absence of ex-ante (before an event) analysis of the economic costs associated with a decision.

•The stalling of major infrastructure projects has many negative economic impacts:

•Loss of job opportunities

•Revenue loss to the government in terms of tax from the companies

•Increased cost on the company involved in terms of business impact of closure or stalling

•Negative impact on the ease of doing business perception which leads to lower foreign and private investment in the Indian economy.

Counterviews:

•Some environmentalists are of the view that it is the government's failure to uphold environmental laws or negligence in granting go ahead for major projects that has forced the courts to give strict orders.

•The SC interventions have also had some positive impacts.

•The Supreme Court's intervention led to the adoption of CNG (compressed natural gas, in transport vehicles in Delhi) and the economic benefits from it.

Way forward:

•The study should contribute to public discourse among policymakers on the critical issue of balance between environmentalism and developmental economics.

•The judiciary needs to take into account environment, equity and economic considerations while deciding cases, and needs to institutionalise a mechanism for it.

•Apart from assessing the environmental impact of a project the judiciary must also promote an 'economically responsible approach'.

SC questions delay in setting up environment regulator

The Supreme Court has asked the government to explain why it had not set up an independent environment regulator to oversee green clearances.

• In the 'Lafarge mining case', the Supreme Court had ordered the setting up of a national environment regulatory body to ensure independent oversight of green clearances, in July 2011.

• The court had asked the Centre to appoint a national regulator for:

- Appraising projects

- Enforcing environmental conditions for approvals

- Imposing penalties on polluters

• The court had explained the need for an independent regulatory mechanism.

• It had stated that the identification of an area as a forest area is solely based on the declaration to be filed by the user agency [project proponent]. The project proponent was

required to undertake EIA by an expert body/institution.

•The court had made it clear that till such mechanism was put in place, the Environment Ministry (MoEF) should prepare a panel of accredited institutions from which alone the project proponent should obtain the Rapid (EIA) and, that too, on the Terms of Reference to be formulated by the MoEF.

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Regulation redux

The Supreme Court's notice to the Centre on a public interest plea to set up a national environmental regulator under the Envir (Protection) Act, 1986.

Government's reluctance to set up a national environmental regulator:

- Successive governments have preferred to ignore the Supreme Court's observations on the need for a national environmental regulator.
- In 2011 and 2014, the Centre had rebuffed the apex court on the question of forming an independent regulator, contending that its orders in the Lafarge mining case were only in the nature of a suggestion.

Ease of doing business over environmental conservation:

- The current official policy seems to privilege ease of doing business over environmental conservation.
- The environmental clearances under forest, wildlife, air and water quality laws seem to be heavily weighted in favour of promoters.

• Prominent environmentalists have pointed out major concerns with respect to the draft Environmental Impact Assessment (EIA) Notification 2020.

• The 2020 notification reduces civil society's role in the EIA process.

• It does not encourage the public to voice its views and report violations.

• The EIA seems to overlook the views of communities that would be displaced, and are ill-equipped to assess the loss of biodiversity and ecosystem services such as clean air, water and farm productivity.

• The EIA process even as per the 2006 notification has been critiqued for neglecting the inherent conflict of interest in its provisions given that the proponent of a project is itself responsible for producing the EIA report.

• There are serious questions being raised over the credibility of the EIA process, given the increasing instances of the EIA report being produced with the help of dubious expertise and manipulated data.

Concerns with respect to regulations:

- The slow pace at which the multiple departments process project proposals have not only resulted in the raising of transaction costs but also created a sense of uncertainty among the investors.
- This has aided in the clamour to dispense with regulation.

Conclusion:

- The government must recognise the limits to extractive growth and work towards preserving the integrity of the environment. India cannot afford to degrade its forests, rivers, wetlands and air, whose health is vital for its large population.
- The Centre and States must acknowledge the conflict between the need for economic growth and environmental conservation.
- Administrative reforms can aid in sustainable environment management and the setting up of a neutral national environmental regulator could be the first step in this direction.

Empowering nature with biocentric jurisprudence

Judicial intervention to protect the Great Indian Bustard (GIB).

The Great Indian Bustard

- GIBs are the largest among the four bustard species found in India.
- They are one of the heaviest birds with flight, preferring grasslands as their habitat.
- Birds in grasslands are considered an important indicator of how healthy the ecosystem is.
- Hence, GIBs are considered the flagship bird species of grasslands.

Decline in numbers

- Being terrestrial birds, they spend most of their time on the ground with occasional flights to go from one part of their habitat to the other.
- It is now nearing extinction due to collision with high voltage power lines.
- These bustards are prone to collision due to their poor frontal vision and inability to see the power lines from a distance.

Supreme Court directive:

- The Govts of Gujarat and Rajasthan have to expedite the procedure to convert the overhead cables into underground power lines.
- The Govts have to install bird diverters where high voltage lines cannot be moved underground.

Anthropocentrism and biocentrism

- Anthropocentric Approach means "human-centredness". It says that nature primarily exists for humans.
- Biocentric Approach is oriented toward protecting non-human organisms and nature as a whole. It is based on a nature-centric value system.
 - It believes that human species is a mere component of the ecosystem.
- In protecting the birds, the Court has affirmed and emphasised the biocentric values of eco-preservation.

Species in danger

1. Lions—There are about 20,000 lions in Africa today. Their numbers five decades ago was at 4,50,000.
2. Orangutans— Threats include loss of habitat through deforestation, palm oil plantations,

indiscriminate monoculture farming in the forests of Borneo and Sumatra.

3. Rhinos—They are killed for the perceived medicinal value of their horns and are slowly becoming extinct.

4. Lemurs—Deforestation and hunting are the greatest threats to the lemur.

Constitutional Obligation

- Article 48A & 51-A (g)

- Supreme Court has brought some animal rights under the ambit of the R2 life through an expansive reading in the case of Animal Welfare Board of India v. A. Nagaraja & Ors.

Global Examples:

- In 2008, Ecuador became the 1st country in the world to recognise "Rights of Nature" in its Constitution.

- Bolivia has also joined the movement by establishing Rights of Nature laws too.

- In 2010, the city of Pittsburgh, Pennsylvania became the first major municipality in the United States to recognise the Rights of Nature.

Keep ESZ of 1 Km around Forests: SC

Eco-Sensitive Zone area

WHAT IS ESZ AREA

Creates a buffer zone around protected areas

Places restriction on construction, industries

Restricts pollution, extraction of surface water

Minimum of 100 m

Can be up to 10 km

Notifications in Karnataka

ESZ area currently notified

Bandipur National Park 479.18 sq. km notified in 2013

ESZ areas that have received MoEF approval for final notification

25 national parks and sanctuaries

Total area of ESZ notification

Nearly 4,455 sq. km

ESZ areas pending approval from MoEF: 4

Anshi Dandeli National Park and Bhimgad, among others

Bannerghatta National Park, spread across 260 sq. km, harbours a high population of wild elephants. ■ SUDHAKARA JAIN

Includes Bannerghatta National Park, Gudkote Sloth Bear Sanctuary, Ramadevarabetta Vulture Sanctuary, Cauvery Wildlife Sanctuary, Nugu Wildlife Sanctuary, Kudremukh National Park, among others

Source: Ministry of Environment and Forests

SC has directed that every protected forest, national park and wildlife sanctuary across the country should have a mandatory **eco-sensitive zone (ESZ)** of a minimum **1 km** starting from their demarcated boundaries.

Why such move?

- The purpose of declaring ESZs is to create some kind of a **"shock absorber"** to the protected areas by regulating and managing the activities around such areas

- These zones would act as a transition zone from areas of high protection to those involving lesser protection.

What are the ESZs?

- ESZs or Ecologically Fragile Areas (EFAs) are areas notified by the MoEFCC.

How are they demarcated?

- The Environment (Protection) Act, 1986 does not mention the word "Eco-Sensitive Zones".
- However, Section 3(2)(v) of the Act, says that Central Govt can restrict areas in which any industries, operations or processes or class of industries, operations or processes shall be carried out or shall not, subject to certain safeguards.
- Besides Rule 5(1), states that central Govt can prohibit or restrict the location of industries and carrying on certain operations or processes on the basis of certain considerations.
- The same criteria have been used by the Govt to declare No Development Zones (NDZs).

Defining its boundaries

- An ESZ could go up to 10 kilometres around a protected area as provided in the Wildlife Conservation Strategy, 2002.
- Moreover, in the case where sensitive corridors, connectivity and ecologically important patches, crucial for landscape linkage, are beyond 10 km width, these should be included in the ESZs.
- Further, even in the context of a particular Protected Area, the distribution of an area of ESZ and the extent of regulation may not be uniform all around and it could be of variable width and extent.