



WILDLIFE CLEARANCES — ARE THEY REALLY SERVING THE PURPOSE OF PROTECTING THE PROTECTED AREAS?

A POLICY BRIEF

NISHANK

Introduction

Wildlife Clearance plays a crucial role in protecting India's designated protected areas. The wildlife clearances issued by the Standing Committee of the National Board of Wildlife (SC-NBWL) for various infrastructure and developmental projects have constantly come under scanner over the years. As per the existing laws, the role of the regulator, i.e. National Board for Wildlife (NBWL) has been ensuring promoting conservation and development of wildlife and forests. However, under the pressure of economic growth, NBWL's role has reduced to merely as a "clearance house" for projects, where most of the infrastructure and developmental projects eventually get a go ahead, even though it may come at the cost of irreversible destruction of precious flora and fauna in biodiversity hotspots. Over the last few years, NBWL has also been criticized by environmentalists and activists over the composition of the board, where the mandatory inclusion of independent experts was overlooked and even the Supreme Court had taken cognizance of the matter. This policy brief aims to give the reader an insight into details of Wildlife Clearance, details related to functioning of NBWL and the controversies surrounding it, some trends and analysis of data around Wildlife Clearance over the past few years and the recent changes in laws which affect the overall regulatory scenario around Wildlife Clearances.

What is the need of Wildlife Clearance?

Wildlife Clearance is a clearance or permission required from National Board for Wildlife (NBWL), a statutory body created under India's Wildlife (Protection) Act, 1972, as per Supreme Court order to establish any industry or development projects inside or within 10 km radius of any protected area. In the context of protected areas, Wildlife Clearance becomes an additional level of clearance for projects apart from Environmental Clearance and Forest Clearance. Application for obtaining Wildlife Clearance could be for a variety of infrastructure projects ranging from railway projects, highway projects, mining, construction of dams and irrigation projects, gas pipeline, transmission line, establishment of factories, etc.

An application for Wildlife Clearance for any project on Ministry of Environment, Forests and Climate Change (MOEFCC)'s website Parivesh Portal seeks various details from the project proponent such as:

- i) Project Area Under Protected Area/Non-Protected Area
- ii) Shape of Project (Linear/Non-Linear)
- iii) Justification for locating the Project in protected area and details of alternates examined
- iv) Employment likely to be generated (Permanent/Regular Employment and Temporary Employment)
- v) Displacement of People due to the project, if any
- vi) Details of the Biodiversity Impact Assessment report in case the proposal



- involves use of more than 50 hectares of land
- vii) Information on the projects undertaken by the proponent agency in the past in Protected Areas
- viii) Details regarding compliance of the conditions on each proposal

Seeking such details emphasizes the sensitivity of the matter in allowing any projects near or within the protected areas. Many of these projects can lead to irreversible damage disturbing the delicate ecosystem in which the wildlife thrives and they can even bring immense harm to the wildlife.

Role of National Board of Wildlife (NBWL) in Wildlife Clearance

The history of NBWL traces back to 1952, when an advisory board designated as the Indian Board for Wildlife (IBWL) was constituted by the Government of India, which was chaired by the Prime Minister.¹ Under the amendments in Wildlife Protection Act, 1972 undertaken in year 2002, a provision was incorporated for the constitution of the National Board for Wildlife which replaced the erstwhile IBWL. NBWL formally came into existence through a Gazette Notification on September 22, 2003 tasked with promoting conservation and development of wildlife and forests.

Currently, NBWL has a 47 member committee headed by the Prime Minister and Minister of MOEFCC as the vice chairperson. Among these, 19 members are ex-officio members.² The Additional Director General of Forests (WL) & Director, Wildlife Preservation is the Member-Secretary to the Board. In addition to framing policies and advising the Central Government on matters related to conservation, it is responsible for regulating activities within India's protected areas. The law mandates the NBWL to constitute a Standing Committee (SC NBWL) for carrying out its various duties and functions. The Standing Committee is required to consider proposals which involve use of land from protected areas for activities such as mining, irrigation, roads, highways, etc. It is the responsibility of the Standing Committee to screen these proposals, seek additional information or studies, order for site inspections and subsequently approve or reject the proposal. Before a project is sent to NBWL for the final approval, State Board of Wildlife (SBWL) appraises projects around protected areas, and recommends them to the NBWL for a final call. Prior approval from SC NBWL is also mandatory for proposals involving alteration of boundaries of Wildlife Sanctuaries and National Parks. Further, as per the amendment made to the Wildlife (Protection) Act, 1972 in 2006, approval from SC NBWL is mandatory for projects which involve diversion of tiger reserves and areas that link one protected area or tiger reserve with another protected area or tiger reserve.

¹ Press Release - National Board for Wildlife - Press Information Bureau - June 16, 2006 - <https://pib.gov.in/newsite/erecontent.aspx?relid=18417>

² National Board for Wildlife hasn't met even once since 2014 - Down To Earth Magazine - April 10, 2020 - <https://www.downtoearth.org.in/news/wildlife-biodiversity/national-board-for-wildlife-hasn-t-met-even-once-since-2014-70374>



Issues with functioning of NBWL in the recent years

Concerns had been raised regarding the composition of the NBWL board since the time the new board came into existence in 2014, especially around the lack of independent representation and green activists had pointed out that there should be younger people on the board along with presence of sociologists, biologists, economists, etc.³ Even the Supreme Court intervened in this matter, when responding to a PIL, in August 2014 it questioned the legality of the composition of the NBWL, along with restraining NBWL from taking any decisions till the next date of hearing. In the PIL, it was alleged that as per WLPA, the government is mandated to nominate five representatives from green NGOs and 10 independent experts including eminent environmentalists, conservationists and ecologists on the board, but it had nominated only one NGO (a body of Gujarat government) and two independent experts. Similarly, as per the law, 10 states were supposed to be nominated as part of the board on a rotational basis but the government had nominated only five states.⁴ Further, the Supreme Court had issued a notice to the Centre, asking it to put on hold around 140 projects till the next hearing, which NBWL had cleared in its meeting in August 2014.⁵ Later it was reported in September 2014 that the government had reconstituted the NBWL, to accommodate the requirement of 15 independent and non-official members.⁶ Finally, in November 2014 the Supreme Court lifted its three-month-long restraint order that restrained the NBWL from executing any decision taken by it, which had put the earlier given clearances to roughly 140 projects on hold.⁷

Based on the provisions of the WLPA, a new board is constituted by every new government, with the new PM as the chair. Under the WLPA provisions, a Standing Committee can be constituted by the NBWL, but the board has to meet at least twice in a year. It was reported in April 2020 that NBWL had not met even once in six years since the new board was constituted. During this period, policy decisions and clearances had come from a standing committee. Environmental experts and ex-board members had raised apprehensions that it is only the NBWL and not the Standing Committee, which has the power to deal with policy level decisions and the Standing Committee functioned purely as a project clearance body.⁸ This also meant that any policy level crucial decisions pertaining to wildlife had been neglected due to the NBWL not having its mandatory meetings.

³ New NBWL is just as toothless: Activists - Pune Mirror - September 15, 2014 - <https://punemirror.com/pune/civic/new-nbwl-is-just-as-toothless-activists/cid5253446.htm>

⁴ Supreme Court questions legality of National Board for Wildlife under Narendra Modi - Down To Earth Magazine - August 26, 2014 - <https://www.downtoearth.org.in/news/supreme-court-questions-legality-of-national-board-for-wildlife-under-narendra-modi-45957>

⁵ SC puts on hold 140 projects cleared by Wildlife Board - Business Standard - August 2014 - https://www.business-standard.com/article/economy-policy/sc-puts-on-hold-over-100-projects-cleared-by-wildlife-board-114082500953_1.html

⁶ Centre rejigs wildlife panel after SC flak - India Today - September 15, 2014 - <https://www.indiatoday.in/mail-today/story/wildlife-panel-supreme-court-centre-rejigs-292520-2014-09-15>

⁷ Apex court lifts its order restraining Wildlife Board - The Indian Express - November 22, 2014 - <https://indianexpress.com/article/india/india-others/apex-court-lifts-its-order-restraining-wildlife-board/>

⁸ National Board for Wildlife hasn't met even once since 2014 - Down To Earth Magazine - April 10, 2020 - <https://www.downtoearth.org.in/news/wildlife-biodiversity/national-board-for-wildlife-hasn-t-met-even-once-since-2014-70374>



This absence of required periodic meetings of the NBWL had again led to Supreme Court intervening in response to a PIL in March 2021 by issuing a notice regarding the non-functioning of the NBWL.⁹

Some insights into the quantum of wildlife clearances issued by NBWL in recent years:

The NBWL has constantly come under scanner for acting more like a facilitator for sanctioning various projects, than acting as a vigilant watchdog for safeguarding the protected areas. When the entire nation was under lockdown, on April 07, 2020, a virtual meeting was held by the Standing Committee of NBWL, where 31 proposals were discussed regarding projects inside or within 10 km of protected areas; out of them, a staggering 26 projects were approved.¹⁰ 16 of the approved projects were linear infrastructure projects such as highways, transmission lines and railway lines which cut through national parks, sanctuaries and tiger corridors.¹¹ Similarly, the other projects spread over 3,000 acres of land located in eco-sensitive areas were also approved.

According to an analysis¹² done by Legal Initiative for Forest and Environment (LIFE), Standing-Committee of the National Board for Wildlife allowed for diversion of 1,792 hectares of wildlife habitat in protected areas in the three meetings conducted in 2020 in the months of April, July and October in which 82 proposals were considered. The diversion of protected areas included de-notification of protected areas in wildlife sanctuary, tiger reserves and national parks for infrastructure projects and none of the proposals were rejected. Out of the 82 projects, 25 proposals were related to diversions within protected areas, 23 proposals were for diversions from tiger habitats and three proposals involved de-notification (deletion) of areas within a wildlife sanctuary for boundary alteration. The remaining 31 proposals were related to diversion within the 10-kilometer radius (default eco-sensitive zone) from the boundary of the PAs. Between January and June 2021, the NBWL had approved the denotification (deletion), diversion (permitted for projects) or rationalisation (redrawing of boundaries) of over 14,000 hectares of land under protected areas, with some of these alterations having potentially disastrous impacts for the wildlife.¹³

If one goes through the data of the total number of clearances issued by the NBWL spread over the years, it presents a disturbing scenario with regards to saving our protected areas. The NBWL gave wildlife clearances to 680 projects between 2015-16 and 2019-20, according to the answer given in Rajya Sabha by the environment ministry in September 2020. The

⁹ Besides 'Non-functioning', Wildlife Board's Focus Shifted from Conservation to Clearance, Say Activists - NewsClick - March 15, 2021 - <https://www.newsclick.in/besides-non-functioning-wildlife-board-focus-shifted-conservation-clearance-activists>

¹⁰ 26 projects approved by the Indian National Board of Wildlife on April 7th 2020 - Technology for Wildlife Foundation - June 10, 2020 - <https://www.techforwildlife.com/blog/2020/6/10/26-projects-approved-by-the-indian-national-board-of-wildlife-on-april-7th-2020>

¹¹ India's National Board for Wildlife Is a Big Threat to India's Wildlife - The Wire, Science - April 26, 2020 - <https://science.thewire.in/environment/national-board-for-wildlife-prakash-javadekar-environment-ministry-destruction-protected-areas/>

¹² 1,800 hectare wildlife habitat diverted for infra projects in 2020: Report - The New Indian Express - June 05, 2021 - <https://www.newindianexpress.com/nation/2021/jun/05/1800-hectare-wildlife-habitat-diverted-for-infra-projects-in-2020-report-2312203.html>

¹³ From January to June, wildlife board gave permits that can be 'disastrous' for protected areas - The Print - October 10, 2021 - <https://theprint.in/india/from-january-to-june-wildlife-board-gave-permits-that-can-be-disastrous-for-protected-areas/747507/>



Standing Committee of the NBWL met 23 times between 2015-16 and 2019-20 during which it granted clearance to these 680 projects.¹⁴ Similarly, in a response to another query made in Lok Sabha in February 2019, it came to light that between August 2014 and February 2019, NBWL had cleared 682 of the 687 projects which had come up for its scrutiny, which made it a staggering clearance rate of 99.82%, thus earning the ‘distinction’ of a ‘clearance house’ for projects than a regulator ensuring adequate protection for the protected areas.¹⁵ Between August 2014 and May 2018, 519 projects had been cleared by the NBWL. An analysis of 17 Meetings of the SC-NBWL over the four years revealed that on an average 40 proposals were placed on the table in meetings lasting only few hours, with an average of 28 proposals being cleared in every meeting.¹⁶

In an interview¹⁷ to Deccan Herald in May 2020, Ritwick Dutta, environmental lawyer and founder of the Legal Initiative for Forest and Environment (LIFE) had questioned the role of the NBWL and had stated, *"Protected areas amount to less than 5% of the total land areas and the belief is that destroying them is critical to achieve economic growth. The NBWL rather than being a protector has become an active agent in this destruction. Each member of the Board should be made individually liable for the destruction."* Similarly, environment activist Vikrant Tongand shared his insights with NewsClick portal in March 2021, where he expressed his disappointment that the focus of the NBWL and the government had shifted from conservation to clearances of projects. He had stated, *"The purpose was to create a body to take decisions on key projects; this was supposed to be a high level board with the PM heading it. Over time, the government has shifted its view to see the board as one handing out clearances to projects. Instead, the focus was supposed to be conservation, to ensure that wildlife habitats did not get affected. However, the discussions have not been focused on conservation."*¹⁸

From the year 2017, while granting clearances, NBWL’s standing committee had been laying down mitigation measures for most infrastructure projects, especially the linear infrastructure projects, such as building overpasses and underpasses to give safe passage to wildlife across highways, railways and canals. But such measures had been criticized by environmentalists as a trade-off for clearing projects. Additionally, NBWL members had pointed out that projects were being executed without implementing the measures. In order to tackle the situation, in a meeting held in January 2019, it was decided that projects would

¹⁴ 680 projects in protected areas given wildlife clearance in 5 years - Hindustan Times - September 19, 2020 - <https://www.hindustantimes.com/india-news/680-projects-in-protected-areas-given-wildlife-clearance-in-5-yrs/story-xw4fTYNZtsGxyX5wSLJCuK.html>

¹⁵ 99.82% projects in forests got nod - The Hindu - February 13, 2019 - <https://www.thehindu.com/news/national/9982-projects-in-forests-got-nod/article26261368.ece>

¹⁶ Over 519 developmental projects cleared over 4-yrs threaten last wild areas - Business Standard - September 22, 2018 - https://www.business-standard.com/article/current-affairs/over-519-developmental-projects-cleared-over-4-yrs-threaten-last-wild-areas-118092200091_1.html

¹⁷ 'National Wildlife Board an active agent in environmental destruction' - Deccan Herald - June 01, 2020 - <https://www.deccanherald.com/specials/insight/national-wildlife-board-an-active-agent-in-environmental-destruction-843688.html>

¹⁸ Besides 'Non-functioning', Wildlife Board's Focus Shifted from Conservation to Clearance, Say Activists - NewsClick - March 15, 2021 - <https://www.newsclick.in/besides-non-functioning-wildlife-board-focus-shifted-conservation-clearance-activists>



be hand-picked across states to check if they were adhering to clearance conditions.¹⁹ However, such a lackadaisical approach has jeopardized the flora and fauna in the protected areas.

As long as government and the NBWL sees its interests aligned more with the economic growth of the nation than focusing on the conservation of the protected areas, the spate of irreversible damages will continue in the name of 'public good' or unavoidability. As per the law, NBWL has been tasked with promoting conservation and development of wildlife and forests and it should strictly stick to its mandate than ensuring that the demands of the industries and other government departments are catered even at the cost of destruction of protected areas.

Analysis of Wildlife Clearance Applications between 2015 and 2019

Given below is an analysis of Wildlife Clearance applications submitted to Parivesh Portal under MOEFCC. For the purpose of our analysis, the data from Parivesh Portal²⁰ has been extracted for projects that had applied for wildlife clearance between the years 2015 and 2019. According to the Parivesh Portal, applications had been submitted for a total of 3,622 projects in these 5 years. The analysis here is based on the data submitted by the project proponents (i.e. the User Agency). It should be noted that some of these projects fall under the buffer zone of protected areas (i.e. the 10 km radius), but still have to apply for wildlife clearance. Hence, the area of these projects within the protected area comes to nil and accordingly is mentioned as zero. Meanwhile, for some other projects, especially linear infrastructure projects, part of the projects which fall under both protected areas and non-protected areas, the total land area required for the projects is mentioned. Similarly, some projects are located specifically in the buffer zones, but their project area have been mentioned. This clubbing together of data of project area falling within the protected area and project area in the buffer zone or even the non-protected areas adds to some discrepancy in data. The focus of this analysis is on the projects having project area more than 10 hectares of land. The shortlisted projects have been analysed based on the details provided to assess whether these projects fall within the boundaries of the protected areas or whether they are exclusively in the buffer zone.

Based on the above criteria, a total of 185 projects have been shortlisted out of which 123 projects fall within the boundary of the protected areas and 62 projects are in the buffer zone. These projects have been shortlisted irrespective of their project status (as on July 23, 2021) to give the reader an idea of the large scale projects proposed near protected areas and the nature of various projects and specifically which protected areas and states are witnessing more of such large scale projects.

¹⁹ Wildlife board to screen projects for compliance - DNA India - January 25, 2019 -<https://www.dnaindia.com/india/report-wildlife-board-to-screen-projects-for-compliance-2711842>

²⁰ Parivesh Portal – Wildlife Clearances - http://forestclearance.nic.in/Wildnew_Online_Status_New.aspx



The 185 projects included in the analysis here constitute a total area of 33,780 hectares of forest land (including the buffer zones). Out of these the top 5 projects area-wise constitute a total area of 19,608 hectares or roughly 56% of the total land area under consideration. One of the anomalies in this analysis occurs because of the proposal for denotification of 11,173 hectares of land of Son Chiriaya (Hukna Bird) Wildlife Sanctuary Ghatigaon, Gwalior in Madhya Pradesh. If one excludes this project, then the total land area for the rest of the 184 projects comes to 22,608 hectares.

Given below is the year-wise segregation of projects between 2015 and 2019 that have applied for Wildlife Clearance on the Parivesh Portal.

Table 1: Year-wise segregation of all the projects between 2015 and 2019

Sl. No.	Year	No. of Projects
1	2015	302
2	2016	526
3	2017	602
4	2018	1431
5	2019	801

One can observe from the above table that the highest number of proposals for Wildlife Clearances were submitted in 2018. However, from the observations, it could not be ascertained as to why this specific year showed a huge surge compared to the other years.

Similarly, one can observe the year-wise segregation of projects between 2015 and 2019 that have an area requirement of more than 10 hectares.

Table 2: Year-wise segregation of all the projects between 2015 and 2019 with area of more than 10 hectares

Sl. No.	Year	No. of Projects
1	2015	18
2	2016	43
3	2017	18
4	2018	49
5	2019	57

From the table above, one can observe that the maximum number of proposals for wildlife clearances came in the year 2019.



Table 3: Category-wise distribution of the projects which had applied for clearances:

Sl. No.	Project Category	No. of Projects	States/UTs
1	Drinking-Water	10	Maharashtra, Rajasthan, Telangana
2	Hydel	2	Karnataka, Tamil Nadu
3	Industry	5	Assam, Haryana, Rajasthan
4	Irrigation	20	Andhra Pradesh, Haryana, Jharkhand, Karnataka, Madhya Pradesh, Maharashtra, Rajasthan, Tamil Nadu, Telangana
5	Mining	10	Gujarat, Jharkhand, Karnataka, Madhya Pradesh, Rajasthan
6	Pipeline	3	Andhra Pradesh, Gujarat
7	Railway	12	Bihar, Goa, Gujarat, Jharkhand, Karnataka, Madhya Pradesh, Maharashtra, Odisha, Telangana
8	Rehabilitation	2	Telangana, Karnataka
9	Road	72	Andhra Pradesh, Arunachal Pradesh, Bihar, Goa, Gujarat, Haryana, Jharkhand, Karnataka, Madhya Pradesh, Maharashtra, Manipur, Odisha, Punjab, Rajasthan, Sikkim, Tamil Nadu, Telangana, Uttar Pradesh
10	Thermal	5	Rajasthan
11	Transmission Line	18	Andhra Pradesh, Assam, Chhattisgarh, Goa, Karnataka, Madhya Pradesh, Maharashtra, Manipur, Mizoram, Telangana, Tripura, Uttar Pradesh
12	Village Electricity	6	Bihar, Chhattisgarh, Jharkhand, , Odisha, Rajasthan
13	Windpower	3	Gujarat
14	Others*	17	Andhra Pradesh, Gujarat, Jharkhand, Madhya Pradesh, Maharashtra, Manipur, Odisha, Punjab, Rajasthan, Sikkim, Tamil Nadu, Telangana, Uttar Pradesh

** The row classified as 'Others' in the project category includes projects which do not fall in the rest of the categories and constitutes projects such as denotification, airports, ports, real estate, etc.*

As it can be observed from the table above, out of the 185 projects, the maximum number of projects are road projects i.e. 72 projects, followed by 20 projects under the category of irrigation projects. If various projects related to electricity are combined then the number of such projects comes to 34 projects (Hydel + Thermal + Transmission Line



+ Village Electricity + Wind Power).

Similarly, the shortlisted projects can be categorized state-wise to get an idea of the states where maximum number of such project proposals have been submitted:

Table 4: Break-up of state-wise project proposals for Wildlife Clearances between 2015 and 2019

Sl. No.	State	No. of Projects
1	Andhra Pradesh	11
2	Arunachal Pradesh	2
3	Assam	4
4	Bihar	5
5	Chhattisgarh	3
6	Goa	4
7	Gujarat	10
8	Haryana	8
9	Jharkhand	10
10	Karnataka	11
11	Madhya Pradesh	17
12	Maharashtra	17
13	Manipur	4
14	Mizoram	1
15	Odisha	3
16	Punjab	1
17	Rajasthan	30
18	Sikkim	1
19	Tamil Nadu	11
20	Telangana	20
21	Tripura	3
22	Uttar Pradesh	9

The data provided in the above table shows that the maximum number of projects are located in Rajasthan, i.e. 30 projects, followed by 20 projects in Telangana. Further 17



projects each are located in Madhya Pradesh and Maharashtra.

The analysis of projects spread across various categories, especially the linear infrastructure projects mentioned in this section is an attempt to provide the reader with an understanding of the spread of projects within or near protected areas across the country. The data provided gives an insight to the reader as to why there is a dire need of looking at the cumulative impacts of these projects over multiple protected areas than analysing these projects in isolation. It is also important to take into account that several of the project proponents are not private players, but various government departments carrying on their respective work. The government should ensure better oversight that its various departments do not become the key drivers in environmental destruction.

Recent changes in laws and rules around Wildlife Clearances

In June 2022, Supreme Court had issued a notice that all protected areas of the country should have a mandatory Eco-Sensitive Zone (ESZ) of a minimum one km starting from their demarcated boundaries.²¹ Earlier, when MOEFCC had issued guidelines in 2011 on declaring ESZs of 10 km radius, it was essentially meant to be “shock absorbers” and transition zones from areas of high to low protection for wildlife and biodiversity. Even the much earlier issued 'Wildlife Conservation Strategy 2002'²² by MOEFCC had stated, "Lands falling within 10 km of the boundaries of National Parks and Sanctuaries should be notified as eco-fragile zones under section 3(v) of the Environment (Protection) Act and Rule 5 Sub-rule 5(viii) & (x) of the Environment (Protection) Rules." The judgment had even observed that the government should not confine its role to that of a “facilitator” of economic activities for the “immediate upliftment of the fortunes of the State”. The Supreme Court held that if a protected area already has a buffer zone extending beyond one km then that would prevail. However, cases where extent of buffer zone was pending a statutory decision, until a final decision was arrived at under the law, the court’s direction to maintain the one-km safety zone would be applicable. The Supreme Court had also directed that “mining within the national parks and wildlife sanctuaries shall not be permitted”. This decision of Supreme Court had drawn concerns from environmentalists who claimed that ecological perspective was not given due consideration. Moreover, this judgement ignored whether a protected area was spread over only a few square kilometres or hundreds of square kilometres. It was also argued that such a binding rule would be detrimental for the communities residing on the edge of forest boundaries for decades and who depend on the forest resources for a living.²³

²¹ Keep eco-sensitive zone of 1 km around forests: Supreme Court - The Hindu - June 04, 2022 - <https://www.thehindu.com/sci-tech/energy-and-environment/sc-for-minimum-1-km-eco-sensitive-zone-around-every-protected-forest-national-park-wildlife-sanctuary/article65491960.ece>

²² Wildlife Conservation Strategy 2002 - <https://moef.gov.in/wp-content/uploads/2018/03/WILDLIFE%20CONSERVATION%20STRATEGY%202002.pdf>

²³ The Supreme Court verdict on mandatory eco-sensitive zones will help forest conservation in India - Scroll - July 30, 2022 - <https://scroll.in/article/1029095/a-supreme-court-verdict-on-mandatory-eco-sensitive-zones-will-help-forest-conservation-in-india>



In two separate letters issued in July 2020 to chief secretaries of states and Union territories, the MOEFCC had said that a nod from NBWL would only be needed for the projects that require prior environmental clearance or are located in areas linking one protected area to other, i.e. the wildlife corridors. This also meant that railway projects, small-scale developmental works involving construction over less than 20,000 square meters and under-25 MW capacity hydropower plants would not require approval from NBWL, even if the projects are located within ESZs of protected areas.²⁴ Meanwhile, the issued letters also clarified that an approval from NBWL would still be required for projects that fall within a notified ESZ and those that require prior environmental clearance. However, where the protected areas do not have a notified ESZ, an approval from NBWL was needed only if the project required prior environmental clearance and is located within 10 km of the protected area. This exemption for certain categories of projects in protected areas, whether for environmental clearance or wildlife clearance was not a step in the right direction when it comes to pursuing conservation in protected areas.

It was earlier reported in August 2019 that an Office Memorandum (OM) issued by the MOEFCC had stated that projects outside the boundary of the ESZ of a protected area but within 10 km radius will not need any prior clearance from the NBWL.²⁵ These project proposals would have required environmental clearance from the ministry's expert appraisal committee (EAC), which would have ensured that "appropriate conservation measures in the form of recommendations would have been made," as per the memorandum. This OM nullified the previous issued OMs in 2007 and 2009, which had made the NBWL's approval mandatory for projects within a 10 km radius of the protected areas.

While the requirements for environmental clearance and wildlife clearance are deemed separate, having these kind of provisions would only weaken the protection of the protected areas. Further, the high rate of granting environmental clearance for various projects essentially means that the granting of wildlife clearance merely becomes a formality. If one goes by the available data²⁶, out of the 2,592 proposals the MOEFCC received for environment clearance between July 2014 and April 24, 2020, it had approved 2,256 proposals, which comes to a clearance rate of 87 per cent. It should also be noted that out of these proposals, 270 projects have been in and around biodiversity hotspots and national parks. Such a rate of approval, along with dilution of environmental laws raises further concerns.

In context of protected areas, government's recent move to bring amendments to Wildlife Protection Act had received some strong recommendations from a parliamentary panel. In a

²⁴ Wildlife nod not required for railway projects: Ministry - Hindustan Times - August 04, 2020 - <https://www.hindustantimes.com/india-news/wildlife-nod-not-required-for-rly-projects-ministry/story-Ik4I56MXDMxeQDoq5JQhIK.html>

²⁵ Rules eased for clearance of projects near buffer zone - Hindustan Times - August 17, 2019 - <https://www.hindustantimes.com/india-news/rules-easedfor-clearance-of-projects-near-buffer-zone/story-l9ojrWY7BHZD4UudxKzUiJ.html>

²⁶ Environment of suspicion - India Today - July 20, 2020 - <https://www.indiatoday.in/magazine/the-big-story/story/20200720-environment-of-suspicion-1699535-2020-07-11>



report²⁷ submitted to the Parliament in April 2022, Parliamentary Standing Committee on Science and Technology, Environment, Forests and Climate Change, a 29-member panel, after examining the Wildlife (Protection) Amendment Bill, 2021 had raised concerns regarding an amendment for creation of Standing Committee for various SBWLs. While the MOEFCC had given the reason for bringing this provision to make the functioning of the SBWL more purposive, but the parliamentary panel was apprehensive that a Standing Committee with only official members (not more than twelve) and lacking any independent members might "end up being a rubber stamp for faster clearances of projects." The amendment Bill²⁸ was introduced in Parliament in December 2021, where a provision was suggested to constitute a Standing Committee of State Board of Wildlife to exercise delegated powers and duties. It was proposed that the committee would consist of the Vice-Chairperson, the Member-Secretary, and maximum of ten members, to be nominated by the Vice-Chairperson, from amongst the members of the Board.

The panel was of the view that if a Standing Committee of the SBWL was to be formed, then it must mandatorily have as its members:

- a. at least one-third of the non-official members of the SBWL;
- b. at least three institutional members (like ICFRE, NTCA, etc.); and
- c. the Director of the Wildlife Institute of India or his/her nominee.

The panel also underscored that the same composition should be applicable to the NBWL as well. The suggestion of forming Standing Committees of SBWL should also be analysed in the context that NBWL has not met even once since the formation of its Standing Committee in 2014, as mentioned above. The formation of Standing Committees of SBWL without independent representation would weaken the overall process of wildlife clearance as lesser objections might be raised at the state levels.

The changes in laws and rules around Wildlife Clearance made in the last few years do not look much promising, especially with the extremely high rate of approvals of Wildlife Clearance, the lack of proper scrutiny before approving the projects and with the ESZ notification still pending for several protected areas across the country. Further, the rules which obviate the need of environmental clearance for a specific category of projects around protected areas should not be coupled with negating the need of wildlife clearances as both are meant to serve different purposes.

²⁷ THE WILD LIFE (PROTECTION) AMENDMENT BILL, 2021 - VOLUME – I: RECOMMENDATIONS OF THE COMMITTEE - April 21, 2021 https://rajyasabha.nic.in/rsnew/Committee_site/Committee_File/ReportFile/19/165/365_2022_4_12.pdf

²⁸ THE WILD LIFE (PROTECTION) AMENDMENT BILL, 2021 - Bill No. 159 of 2021 - http://164.100.47.4/BillsTexts/LSBillTexts/Asintroduced/159_2021_ls_Eng.pdf



Conclusion

Protected areas are natural habitats that are a culmination of evolutionary processes spanning millions of years. The unique biodiversity of protected areas cannot be sacrificed unquestioningly at the altar of ‘development’. Often, the justification of ‘unavoidability’ or ‘inevitability’ is used in allowing projects, forcing the protected areas to bear the negative consequences due to the ‘human needs’, ‘public interest’ or making way for the “development aspirations” of the nation. The manner in which several projects within or near protected areas have been given a go ahead by the regulators including MOEFCC, NBWL and NTCA raises serious questions as to whose interests are being served. Closer scrutiny reveals that such projects are eventually allowed for higher economic gains or enabling a consumerist energy-intensive lifestyle fuelled by prevalent economic models, which are often at loggerheads with the goals of conservation. Clearances for infrastructure projects, such as the widening of National Highways have often been provided by authorities to allow the faster movement of people and goods through these areas, with an aim to ‘benefit’ the people and the economy. However, such actions come at the price of causing irreversible damage to wildlife and forests. On paper, there are various checks and balances, including wildlife clearance, to ensure that projects having adverse impacts are not allowed near or within protected areas. However, in reality, many such projects are given a go ahead by authorities like SBWLs and NBWL in the name of being exceptions for the larger good. When communities face destruction or displacement, they have avenues to voice their concerns but the wildlife and forests need a representation of environmentalists, activists and citizens so that these “voiceless entities” are not put at stake merely for economic gains or convenience of human beings. It needs to be ensured that decisions regarding fate of protected areas are not taken unilaterally by top authorities without adequate public consultations and public scrutiny of such decisions should be given paramount importance.



Centre for Financial Accountability (CFA) engages and supports efforts to advance transparency and accountability in financial institutions. We use research, campaigns and trainings to help movements, organisations, activists, students and youth to engage in this fight, and we partake in campaigns that can shift policies and change public discourse on banking and economy.

We monitor the investments of national and international financial institutions, engage on policies that impact the banking sector and economy of the country, demystify the world of finance through workshops and short-term courses and help citizens make banks and government more transparent and accountable, for they use public money.

