



**IN THE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH, KOLKATA**

Original Application No. 59/2020/EZ

Dr. R.K. Singh

Applicant(s)

Versus

Union of India & Ors.

Respondents(s)

**SUPPLEMENTARY AFFIDAVITON BEHALF OF THE RESPONDENT NO. 2 AND 3  
HEREIN AS PER THE HON'BLE TRIBUNALS ORDER DATED 13-12-2021**

I, *Chandra Mauli Prasad Sinha* Son of *Late Braj Kishore Prasad Sinha* aged about 59 years, by Religion Hindu, by Occupation Service under the State Government of Jharkhand in the department of *Forest Environment and Climate Change*, Jharkhand, residing at *Saranda House, Chaibasa*, Jharkhand, do hereby solemnly affirm and state as follows:-

1. That I am dealing with the connected records of the case in possession of the Respondent Nos.2 and 3 herein and well acquainted with the facts and circumstances of the case, and as such I am competent and duly authorized by the Respondent Nos. 2 and 3 herein, to make and affirm the instant Supplementary Affidavit.
2. That I am a law abiding citizen of India and very much respect the constitution and judicial system of India.
3. That this counter affidavit is being filed in compliance to the direction of Hon'ble NGT in para '9' of the order dated 13.12.2021 which reads as follows:-

"We therefore direct the Respondent Nos. 2 & 3, State Respondents, to file a fresh affidavit giving para-to-para reply of the Original Application as well as deal with the documents filed at page nos. 20 and 21 (Annexure A-2) to the Original Application and also the documents filed with the rejoinder affidavit dated 11.12.2021 within four weeks."

4. That with reference to the above said direction of the Hon'ble NGT in order dated 13.12.2021 and in continuation of the counter affidavit filed in this case by the state respondents dated 16.12.2020 and supplementary counter affidavit filed dated 20.07.2021, this counter affidavit is being filed on behalf of state respondents.
5. That in compliance to direction for filing counter affidavit giving para to para reply of the original application as well as deal with documents filled at page 20 and 21(Annexure A-2) to the original application following averments is being submitted on behalf of State respondents.

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6. That in reply to the statement made by the applicant in para 1 of the OA it is said and submitted that the so called entity referred to as 'Sasangada/ Saranda Sanctuary' by the Applicant in this para and 'Saranda/ Sasangada Game Sanctuary' in subsequent paras, both the terms having been used interchangeably (referred to as "the Game sanctuary" hereinafter) by the applicant, has never been notified to be declared as "Sanctuary" under Section 26A of the Wildlife (Protection) Act, 1972 (referred to as "the Act" or "the WLPA" hereinafter) by the State Government, neither by the State of Jharkhand nor by the erstwhile parent State of Bihar within the meaning of "Sanctuary" as defined under Section 2 (26) of the Act which reads as follows:

*"Sanctuary" means an area declared as a sanctuary by notification under the provisions of Chapter IV of this Act and shall also include a deemed sanctuary under sub-section (4) of section 66".*

So far as whether the said Game Sanctuary may be deemed to be a Sanctuary' under Section 66 (3) of the Act or not, it is being stated that the Section 66(3) of the Act clearly lays down that **any sanctuary declared by a State Government under any Act repealed under Section 66 (1) shall be deemed to be a sanctuary**. Since the said Game Sanctuary has never been declared as a "Sanctuary" or even as a "Game Sanctuary" under the provisions of any Act, the said Game Sanctuary cannot be deemed to be a "Sanctuary" within the meaning of the WLPA. Therefore, the question of declaration of Eco-Sensitive Zone around the said Game sanctuary simply does not arise.

7. In reply to the statement made under para 2 of the OA no comment is required.
8. That in reply to the statement made by the applicant in para 3 of the OA it is said and submitted that the said Government Notification dated 16.02.1968 mentioned in this para has not been issued drawing powers by virtue of any State Act as there has been no enactment as such by the State Legislature at any point of time in relation to the subject of "Sanctuary" or for that matter that of "Game Sanctuary". Therefore, the said Game Sanctuary does not qualify to be considered as 'deemed to be a Sanctuary' declared by the State Government under the Section 66(3) of the Act. In this regard it is relevant to mention here that the State of Jharkhand was created after bifurcating the erstwhile State of Bihar on

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15.11.2000. The Bihar Govt. website (<https://state.bihar.gov.in/law/Content.html?links&page=Bihar%20Acts>) enlists all up-to-date and year-wise enactments by the State of Bihar. According to this website, the following legislations, which could have any bearing on the subject of forest or/and wildlife, have been enacted by the State of Bihar prior to the year 1972, the year in which the WLPA came into existence:

- a) The Indian Forest (Bihar and Orissa Amendment) Act, 1935.
- b) The Bihar Private Forest Act, 1946.
- c) The Bihar Private Forests Act, 1947.
- d) The Bihar Private Forest (Validating) Act, 1949.
- e) The Bihar Private Forest (Amendment) Act, 1950.

The word(s) "Sanctuary" or "Game Sanctuary" do not find any mention in these legislations. Hence, the question of declaration of the said Saranda/ Sasangada Game Sanctuary, as a "Sanctuary" under any State Act as provided in Section 66(3) of the Act as a pre-requisite for being declared as a 'deemed Sanctuary' under the Act, simply does not arise. It is also being stated that the word 'Sanctuary', however, finds a mention in Rule 3 of the **Bihar Forest Hunting, Shooting & Fishing Rules, 1958** framed under Sub-sections (i) and (j) of Section 26 and Sub-section (i) of Section 32 of the **Indian Forest Act, 1927** in relation to 'Reserved Forests' and 'Protected Forests' respectively. The said Rules had been framed to close certain areas for hunting, shooting, fishing, the poisoning of water and the setting of traps or snares within any reserved or protected forests in the State of Bihar. The Rules also specified the procedure for issuance of licenses/permits for hunting, shooting etc. as also the requisite fees to be levied upon different categories of persons desirous of hunting, shooting etc. However, the word 'Sanctuary' has not been defined under the Indian Forest Act, nor under the said Rules. For the sake of better appreciation of the provisions, the said Rule 3 is being quoted hereunder:

*"The Chief Conservator of Forests may at any time order that any Government forest or part thereof (hereinafter called a sanctuary) shall be closed to the shooting and hunting of all game or that any streams or streams situated within such forest shall be closed to fishing".*



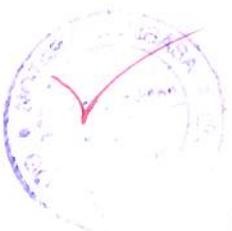
From the perusal of the aforesaid Rule, it is apparent that though the Rule mentions the word "Sanctuary", it is just for reference as to the name given to the areas closed for hunting, shooting etc. Since the Act i.e., the Indian Forest Act, which empowers the State Government to make Rules regarding hunting, shooting etc. does not have a mention or a definition of the term "Sanctuary", it would be against the legislative intent to accord the status of "Sanctuary" to all the areas ordered to be closed by the Chief Conservator of Forests for hunting, shooting etc.

9. That in reply to the statement made by the applicant in para 4 of the OA it is said and submitted that as explained in the preceding para, mere notification of the said Game Sanctuary by the State Government would not suffice to meet the condition laid under Section 66(3) of the Act. The notification must be mandatorily issued under the powers given to the State Government to that effect under any State Act or Central Act. Since No Act had defined the term "Sanctuary" or "Game Sanctuary" prior the enactment of the Wildlife (Protection) Act, 1972, the said notification issued by the State Government in the year 1968 notifying the said Saranda Game Sanctuary, as mentioned in the Working Plan referred to by the Applicant, can at best be considered to be a State Government's initiative and intent on its own and this found a mention under the Working Plan prescriptions furtherance of management objectives desired to be met with through the said Plan, in respect of Saranda Forest Division.

10. That in reply to the statement made by the applicant in para 5 of the OA it is said and submitted that mere mention of Sasangda sanctuary at page number 20 of the book entitled "Backs to the Wall – Saga of Wildlife in Bihar India" written by Mr. S.P. Shahi does not support the applicant's case of legal existence of Sasangada sanctuary, as the said book was published in the year 1977 well after the Wildlife (Protection) Act came into force. The writer's observation on page 21 in the book that "*The conservation of wildlife will depend largely how soon the State Government sets up suitable machinery to implement the Wild Life (Protection) Act, 1972.....*" is notable in this regard. Further, in an article published in Sanctuary Asia (Vol. 31 No. 2, February 2011), Mr.

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Bittu Sahgal, the founder Editor of Sanctuary Asia and a noted wildlifer and activist writes: *"An unlikely wildlifer, the late S.P. Shahi retired as the Chief Wildlife Warden of Bihar and was one of the architects of the great wildlife resurrection of the 1970s and 1980s when most of the parks and sanctuaries we see today were selected, notified and nursed back to health. A 'wolf man', he evolved to become one of Project Tiger's most holistic thinkers. He was an ardent wildlife photographer and one of Bihar's best known wildlife defenders. His book Backs to the Wall – A Saga of Wildlife in Bihar, published in 1977, remains one of the most comprehensive archival records of the vanishing wildlife of Bihar"* [<https://www.sanctuarynaturefoundation.org/article/s.p.-shahi---%281917-1986%29-> accessed from the Web]. Also, it may be noted that Mr. S.P. Shahi headed the Bihar Forest Department from 01.11.1960 to 30.06.1975 and is known for his remarkable contribution towards wildlife conservation in the State. The quote from the said book, referred to by the applicant, that *"Sasangada Buru Sanctuary in the Saranda forests once famous for its elephants and gaur, is now mined for iron ore by the National Mineral Development Corporation"*, published in 1977 and written by a person who headed the Forest Department of Bihar for more than 10 years and retired from service on 30.06.1975, clearly shows that even after a passage of about 5 years from the day the WLPA came into effect the said Sanctuary neither had the legal status of a "Sanctuary" by virtue of a notification by the State Govt. nor the area qualified to be considered so, as the writer himself says that the area was under mining and it used to be rich in wildlife in the past. In any case the concerned area should have been notified by the State Government as a "Deemed Sanctuary" under relevant provisions of the WLPA. Had it been so, Late Shri Shahi must have mentioned this in the said book. Also, had it received the status of a "Sanctuary" immediately after or even before the promulgation of the WLPA it would not have been under mining as observed by Mr. Shahi in the book. Hence, the reference of the word 'sanctuary' in the said book appears to have been used in the literal sense and not in legal sense for sure.

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Here it would be relevant to reiterate that the neither the erstwhile State of Bihar nor the State of Jharkhand has issued any notification after 09<sup>th</sup> September, 1972, the day when the WLPA was notified by the Central Government, declaring the said Sasangada Sanctuary as a Sanctuary or a deemed Sanctuary under the Act.

11. That in reply to the statement made by the applicant in para 6 of the OA it is said and submitted that the words "National Park" and 'Sanctuary" were defined for the first time under the Wildlife (Protection) Act, 1972, not before, in the Indian history. Tracing the history of National Parks and Sanctuaries before the advent of the WLPA across the globe it is being stated that the first effort to clarify similar terms was made in 1933, at the International Conference for the Protection of Fauna and Flora, held in London. This set out four protected area categories: National Park, Strict Nature Reserve, Fauna and Flora Reserve, and Reserve with prohibition for hunting and collecting. In 1942, a rather different classification was incorporated into the Pan American Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere namely, National Park, National Reserve, Nature Monument and Strict Wilderness Reserve. The United Nations (UN) accorded recognition to the significance of **National Parks** and **Equivalent Reserves** as an aspect of the wise use of natural resources when the **United Nations Economic and Social Council (ECOSOC)**, one of the principal organs of the UN, adopted Resolution 713 at its 27<sup>th</sup> session in 1959 in which the Secretary-General was requested to establish in co-operation with UNESCO, FAO, and other interested specialized agencies, a list of national parks and equivalent reserves, with a brief description of each, for consideration by the Council at its 29<sup>th</sup> session. However, the Secretary-General's invitation to Governments to furnish information for the list was found to be inadequate for the submission of a list at the 29<sup>th</sup> session of the Council.

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The definition of the term 'National Park' in the Convention Relative to the Preservation of Fauna and Flora in their Natural State, done at London, 8 November 1933 reads as follows: "The expression

*'national park' shall denote an area (a) placed under public control, the boundaries of which shall not be altered or any portion be capable of alienation except by the competent legislative authority; (b) set aside for the propagation, protection and preservation of wild animal life and wild vegetation, and for the preservation of objects of aesthetic, geological, prehistoric, historical, archaeological, or other scientific interest for the benefit, advantage or enjoyment of the general public; (c) in which the hunting, killing or capturing of fauna and the destruction or collection of flora is prohibited except by or under the direction or control of the park authorities. In accordance with the above provisions facilities shall, so far as possible, be given to the general public for observing the fauna and flora in national parks".*

The definition of the term 'National Park' in the Convention on Nature Protection and Wild Life Preservation in the Western Hemisphere, done at Washington, 12 October 1940, reads as follows: *"The expression 'National Parks' shall denote: Areas established for the protection and preservation of superlative scenery, flora and fauna of national significance which the general public may enjoy and from which it may benefit when placed under public control". (Article 1, para 1)*

*"... The resources of these reserves shall not be subject to exploitation for commercial profit" (Article 3, para 1)*

For the sake of brevity the discussion is being limited to the term 'Equivalent Reserves' which could be taken to be akin to the term 'Sanctuary', a definition of which was suggested in the 27<sup>th</sup> session of ECOSOC thus: *"The term 'equivalent reserves' would apply to those areas which, although not specifically designated as national parks, qualified for inclusion in the international list as significant areas which were given equal protection and which corresponded to the definition given in the London Convention. The list would not include, on the other hand, many reserves such as those set aside for such purposes as the protection of forests, historic monuments or special game species".*

The ECOSOC in its 31<sup>st</sup> session held in the year 1961 came up with a tentative list of National Parks and Equivalent Reserves located in many

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countries including India in the year 1961. As regards the erstwhile Province of Bihar, the following areas find a mention in the said list: Bamiaburu, Baresand, Dumka Damin, Koderma, Lat, Sasangdaburu and Tebo – all being suffixed with the term 'Sanctuary'. The area of Sasangdaburu Sanctuary, subject matter of the instant application, mentioned therein is 7.5 sq. miles in extent and is said to be established in 1936. However, it is being stated here that international conventions, agreements and matters connected thereto do not have any legal sanction unless codified in the form of an enactment.

[Photocopy of the record of ECOSOC, 31<sup>st</sup> session bearing the date 15<sup>th</sup> February, 1961, accessed from the Web, is being enclosed herewith as Annexure – 1]

The Applicant has referred to in this para the proceedings (annexed as Annexure-A-4 of the O.A.) of the Special Meeting of the Standing Committee of the **Indian Board for Wild Life (IBWL)** held at New Delhi on 24<sup>th</sup> November, 1965, **published by the International Union for Conservation of Nature and Natural Resources (IUCN) in the year 1969** wherein the Sasangada Sanctuary finds a mention, and on this ground, he has tried to prove the existence of the said sanctuary. The contention of the applicant is grossly misleading for, he has referred to the mention of the said sanctuary from within one of the two articles entitled "*Wildlife and Tourist Revenues*" written by one S. K. Kooka, Commercial Director, Air India. This article is attached to the IUCN Publication containing the proceeding of the meeting of the IBWL and hence it cannot be taken as a part of the proceeding of the IBWL. The said article has mentioned the names of 'Sanctuaries and National Parks in Eastern India'.

As a matter of fact the said proceeding of meeting of the Standing Committee of the IBWL under Agenda Item No. 1.4 with the title '**UN List of National Parks and Equivalent Reserves in so far as it pertains to India**' clearly mentions that the objective of preparing the UN List is to lay down the principles and the norms on the basis of which suitable areas were to

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be given the status of national parks or equivalent reserves in different parts of the world so that there would be greater international uniformity in defining and recognizing such areas. There was no discussion regarding enlisting so called National Parks and Sanctuaries of India as is evident from the proceeding of the meeting.

In the same publication by IUCN, there is an Article with the title "Wildlife Management in India" written by Mr. M.D. Chaturvedi. The relevant contents are being quoted as follows: *"During the British regime the destruction of wildlife at the hands of trigger happy hunters reached alarming proportions resulting in the adoption of stringent measures. In 1887, the Wild Birds and Animals Protection Act was passed. It was subsequently repealed by Act VIII of 1912. The Forest Act XVI of 1927 dealt with the regulation of hunting and fishing inside the State forests. The game laws enacted sought control over poisoning, netting, snaring and pitting of animals and birds. "Close" periods for various species were indicated. Grant of licenses on payment of nominal dues was introduced. Various States enacted Game Laws of their own, e.g., the Punjab Wild Birds and Wild Animals Protection Act of 1933; the Bombay Act XXVI of 1951, etc. In the Uttar Pradesh, the National Parks Act was passed in 1934, under which the Corbett Park was originally constituted.....A special feature of the Indian Game Laws is that they largely relate to hunting inside the State forest"*.

Later, in the year 1973, International Union for Conservation of Nature and Natural Resources (IUCN) published "1973 United Nations List of National Parks and Equivalent Reserves" which defined National Parks and listed the areas under three distinct lists namely, 'UN List of National Nature Reserves', 'UN List of National Parks and Related Reserves' and 'UN List of Provincial Parks'. Only one area namely 'Hazaribagh National Park' from erstwhile Bihar State figured in the list under 'UN List of National Parks and Related Reserves' category.

[Photocopy of the 1973 United Nations List of National Park and Equivalent Reserves, accessed from the Web, is being enclosed herewith as Annexure-2]



From the aforesaid discussion it is amply clear that the argument of the existence of the said Sasangdaburu sanctuary does not have any basis whatsoever taking its mention as a ground, in an article written by the then Commercial Director of Air India out of intense love for wildlife and primarily for the purpose of promoting wildlife tourism.

12. That in reply to the statement made by the applicant in para 7 of the OA it is said and submitted that since the said Game Sanctuary has never been notified under any Act the provision laid under Section 66(3) of the WLPA is not applicable in this case.
13. That the statement made by the applicant in para 8 of the OA is matter of record.
14. That the statement made by the applicant in para 9 of the OA is matter of record.
15. That the statement made by the applicant in para 10 of the OA is matter of record.
16. That the statement made by the applicant in para 11 of the OA is matter of record.
17. That the statement made by the applicant in para 12 of the OA is matter of record.
18. That in reply to the statement made by the applicant in para 13 of the OA it is said and submitted that the case referred to in this para does not have similarity to the instant case. Here the said sanctuary in Uttarakhand might have been notified under the relevant State Act.
19. That in reply to the statement made by the applicant in para 14 of the OA it is said and submitted that since the so called Sasangada Sanctuary has not been notified as "Sanctuary" within the meaning of the Act the question of delineating Eco-sensitive Zone around the area simply does not arise.
20. That in reply to the statement made by the applicant in para 15 of the OA it is said and submitted that the reply has been given in earlier paras. However it is said that said area is yet to receive the status of a "Sanctuary".



21. That in reply to the statement made by the applicant in para 16 of the OA it is said and submitted that the reply has been given in earlier paras.

22. That in compliance to the order dated 13-12-2021 by the hon'ble NGT following averments is being submitted on behalf of state respondents on documents filed by the applicant with the rejoinder affidavit dated 11-12-2021

(i) That in reply to the statement made by the applicant in para 1 of the rejoinder affidavit no comment is required.

(ii) That in reply to the statement made by the applicant in para 2 of the rejoinder affidavit no comment is required.

(iii) That in reply to the statement made by the applicant in para 3 of the rejoinder affidavit it is said and submitted that the application before the Hon'ble Tribunal lacks any basis whatsoever and deserves to be dismissed.

(iv) That in reply to the statement made by the applicant in para 4 of the rejoinder affidavit it is said and submitted that the so called Sasangada/Saranda Game sanctuary has never been notified by the State Government drawing any power to do so under any State Act or Central Act, for that matter, prior to the enactment of the Wildlife (Protection) Act, 1972. Hence, the area cannot be designated as "Sanctuary" within the meaning of the WLPA under Section 66(3) of the Act. Since the area is not legally designated as a "Sanctuary", the issue of declaration of its eco-sensitive zone is in fruituous.

(v) That in reply to the statement made by the applicant in para 5 of the rejoinder affidavit it is said and submitted that the applicant has utterly failed to appreciate the legal provisions laid under the Act and has unnecessarily engaged into wasting the time of the Hon'ble Tribunal.

(vi) That in reply to the statement made by the applicant in para 6 of the rejoinder affidavit it is said and submitted that the Working Plan of a forest unit is broadly defined as a document that regulates

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wood production, silviculture and tending activities for a specific period of time through the application of prescriptions specifying targets, action and control arrangements. The first need for a Working Plan emerged as a consequence of haphazard felling, heavy grazing, fire and exigency of accounting valuable timbers. This document basically concerns forest management prescriptions and before the order passed by Hon'ble Supreme Court in *T.N. Godavarman Thirumulkpad vs. Union of India & ors.* in 1996, it did not have any legal force. However, on 12.12.1996, the Hon'ble Supreme Court while hearing *T.N. Godavarman* ordered that "The felling of trees in all forests is to remain suspended except in accordance with the Working Plans of the State Governments, as approved by the Central Government". It would be relevant to state here that the said order focused on tree felling and its regulation in consonance with the Working Plan prescriptions. Therefore, mere mention of the word 'sanctuary' or 'Game Sanctuary' and suggestion of certain area to be sanctuary without referring to the formal and legal definition of sanctuary in the Working Plan for Reserved and Protected forests of Saranda division, prepared in or before the year 1936-37, cannot be taken as an argument for the deemed legal existence of sanctuary within the meaning of the WLPA.

(vii) That in reply to the statement made by the applicant in para 7 of the rejoinder affidavit it is said and submitted that as already stated in the parawise reply of the Original Application, neither the word 'Game Sanctuary' nor the word 'sanctuary' had any definition before the advent of the WLPA. Though some international agreements and UN organs like IUCN had suggested definitions of the words 'National Park' and 'Equivalent Reserves' but it cannot be said to be legally binding. Even the enlistment of certain areas designating these as National Park/Equivalent Reserve/Sanctuary cannot be considered to be the basis of declaring a particular area as deemed Sanctuary unless it has been so declared under some State Act or the Central Act.

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(viii) That in reply to the statement made by the applicant in para 8 of the rejoinder affidavit it is said and submitted that 'maintaining' a sanctuary does not connote its declaration as a sanctuary under certain State Act or a Central Act, if any. Here it would be pertinent to mention that in the absence of any legal force as such, only the dictionary meaning of the word 'Sanctuary' could be more appropriate to understand the purport of management prescriptions of the Working Plans being referred to by the Applicant. According to Oxford Dictionary, 'Sanctuary' means 'an area where wild birds or animals are protected and encouraged to breed'. According to Cambridge Dictionary, 'Sanctuary' means 'a place where birds or animals can live and be protected, especially from being hunted or dangerous condition'. The working plan prescriptions at best could be appreciated only with a view to undertaking special measures for protection of fauna and flora of the area. Moreover, Working Plan of a forest division did not have any legal sanctity whatsoever before the year 1996 when the Hon'ble Supreme Court in *T.N. Godavarman* referred to the term 'Working Plan', that too with reference to felling of trees in a forest.

(ix) That in reply to the statement made by the applicant in para 9 of the rejoinder affidavit it is said and submitted that the submission of the Applicant that the said area was 'considered' a sanctuary is frivolous and does not have any legal basis whatsoever so far as according it a status of a deemed sanctuary within the meaning of Section 66(3) of the Act is concerned.

(x) That in reply to the statement made by the applicant in para 10 of the rejoinder affidavit it is said and submitted that the ***Bihar Forest Hunting, Shooting & Fishing Rules, 1958*** has been ***framed under*** sub-section (i) and (j) of Section 26 (with respect to Reserved forests) and sub-section (j) of Section 32 (with respect to Protected forests) of the ***Indian Forest Act, 1927*** by which the State Government has been conferred power to make rules regarding hunting, shooting, fishing, poisoning water and setting traps or snares in Reserved forests and Protected forests of the State and killing or catching of elephants in such areas in which the Elephants' Preservation Act, 1879 is not in force.

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Rule 3 of the said Rules mentions the word "sanctuary" by way of reference to those areas in Government forests which could be ordered by the Chief Conservator of Forests to be closed to shooting and hunting of all game. It may be noted here that under Section 3(51) of *The General Clauses Act, 1897* "Rule" has been defined to mean "*a rule made in exercise of a power conferred by any enactment, and shall include a Regulation made as a rule under any enactment*". The Indian Forest Act under which the said Rules have been framed by the State Government, does not define the word "sanctuary" and therefore the Rule made thereunder cannot define a totally new word or expression. That is why the interpretation clause of the said Rules does not contain the word "sanctuary" and it has merely been referred to mean those areas which shall be ordered by the Chief Conservator of Forests to be closed for hunting, shooting etc.

(xi) That in reply to the statement made by the applicant in para 11 of the rejoinder affidavit it is said and submitted that 'treating' a particular area as "sanctuary" and meeting the yardstick laid under Section 2(26) of the WLPA as to the definition of "sanctuary" under the Act are two narratives, which are poles apart. It is being emphasized herein that Section 66(3) of the Act clearly mentions two specific conditions to be met with, for declaration of 'deemed to be a sanctuary':

- (a) That the sanctuary must be declared to be so by the State Government, prior to the enactment of the WLPA, under any Act; and
- (b) That the Act under which the sanctuary has been declared to be so by the State Government must have been repealed under sub-section (1) of Section 66, which says that "As from the commencement of this Act, every other Act relating to any matter contained in this Act and in force in a State shall, to the extent to which that Act or any provision contained therein corresponds, or is repugnant, to this Act, or any provision contained in this Act, stand repealed".

In the instant case, the so-called Saranda/Sasangada sanctuary has not been declared as 'sanctuary' by the State Government under any Act. Mere mention of the word 'sanctuary' suffixed to a certain area cannot satisfy the statutory requirement laid under section 66 of the Act.



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(xii) That the statement made by the applicant in para 12 of the rejoinder affidavit is matter of record and legal provision.

(xiii) That the statement made by the applicant in para 13 of the rejoinder affidavit is matter of record and legal provision.

(xiv) That in reply to the statement made by the applicant in para 14 of the rejoinder affidavit it is said and submitted that no State Act has been enacted which provided for declaration of a particular area as "Game Sanctuary". Further, the Central Act talks about "Sanctuary" and not "Game Sanctuary". Therefore, the said Government notification bearing no. 1168F dated 16<sup>th</sup> February, 1968 (not 1958, as mentioned in this para) regarding notification of the said Saranda Game Sanctuary as mentioned in the Working Plan (for the period 1976-77 to 1995-96) must have been an administrative decision with management perspective in focus. Moreover, no enactment, either by the State or the Centre, defined 'Game Reserve' as such prior to the 1972 enactment of the WLPA. Even the original unamended WLPA, 1972 defined in a distinctive manner, both the terms "Sanctuary" under Section 2(26) and "Game Reserve" under Section 2(13) of the Act. When the WLPA, 1972 was amended vide the Wildlife (Protection) Amendment Act, 1991, Section 2(13) containing the definition of "Game Reserve" and all the provisions related thereto have been omitted. Therefore, the very premise of taking the said notification dated 16<sup>th</sup> February, 1968 notifying Saranda Game Sanctuary as a justification of declaring Saranda as a deemed Sanctuary under Section 66 of the Act is flawed and baseless.

(xv) That the statement made by the applicant in para 15 of the rejoinder application has already been dealt in proceeding para no.10 of this affidavit which is reply of para 5 of the original OA filed by the applicant.

(xvi) That in reply to the statement made by the applicant in para 16 of the rejoinder affidavit it is said and submitted that with reference to submission by the Applicant in this para, it is worth appreciating that the expression "sanctuary" is a legal entity under the WLPA whereas the expression "Game Sanctuary" is not. At the most one can say that the State Government may have notified certain area as Game Sanctuary after

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defining the contours of its management and administrative aspects. Under no circumstance one can use the two expressions interchangeably when Section 66(3) clearly lays that any sanctuary declared by a State Government under any Act repealed under sub-section (1) shall be deemed to be a sanctuary declared by the State Government under this Act. It is also relevant to state here that since no State enactment has any reference to declaration of an area as sanctuary, the question of repeal simply does not arise. Further, the term "Game Reserve" in the original unamended Act of 1972 and the term "Game Sanctuary" used in the Working Plan do not have any relation as such because the first term was a legal entity till the enactment of Wildlife (Protection) Amendment Act, 1991 while the latter does not have any legal basis whatsoever.

(xvii) That in reply to the statement made by the applicant in para 17 of the rejoinder affidavit it is said and submitted that as stated in earlier paras, the Bihar Forest Hunting, Shooting & Fishing Rules, 1958 was framed by the State Government in furtherance of the powers conferred upon it under Indian Forest Act, 1927 in relation to hunting, shooting etc. This Rule had no bearing upon any area to be designated as "Sanctuary" in the context of WLPA, 1972. The Rule merely intended to close certain areas of Reserved/Protected forests for shooting and hunting as also it specified the procedure for grant of license/permit for hunting etc. and the fees prescribed therefore.

(xviii) That in reply to the statement made by the applicant in para 18 of the rejoinder affidavit it is said and submitted that the original unamended Act defined "Game Reserve" vide Section 2 (13) of the Act as also "Sanctuary", vide Section 2(26) of the Act. However, Section 2(13) of the said Act was omitted vide Wildlife (Protection) Amendment Act, 1991. It is pertinent to note here that the two entities namely "Game Reserve" and "Sanctuary" were envisaged as distinct entities, even in the original unamended Act. And the term "Game Sanctuary" is completely out of bounds of the legislative purview. At the cost of repetition, it is being stated that the said notification of Saranda as Game Sanctuary has not been issued under any State Act, which stood repealed by virtue of Section 66(1) of the Act.

Chandras Mouli Prasad Singh

28/12/2015  
(A. K. S.)



(xix) That In reply to the statement made by the applicant in para 19 of the rejoinder affidavit no comment is required.

(xx) That In reply to the statement made by the applicant in para 20 of the rejoinder affidavit no comment is required.

23. In light of the submissions made in the foregoing paras, the instant O.A. does not hold any merit whatsoever and deserves to be dismissed.

**In light of the submission made above the respondents say and submit that the said area is yet to receive the status of a sanctuary and hence the question of delineating Eco-sensitive zone around the area in question simply doesn't arise.**

**It is therefore prayed that the instant Original Application doesn't hold any merit whatsoever and is fit to be dismissed.**

Chandoo Mouli Prasad Sinha

*(Signature)*  
28/12/2016  
(Chandoo)

Chandoo Mouli Prasad Sinha



VERIFICATION

I, CHANDRA MAULI PRASAD SINHA Son of LATE BRAJKISHORE PD. SINHA

aged about 59 years, by Religion Hindu, by Occupation Service under the State Government of Jharkhand in the department of Forests, Environment and climate change,

Jharkhand, residing at Saranda House, CHAIBASA, Jharkhand and do hereby verify and state that statements contained in paragraph Nos. 1 to 4 are true to my knowledge, the statements contained in paragraph No. 5 to 12 are true to my information derived from the official records of the case, which I verily believe to be true and the statements contained in paragraph Nos. 13 to 15 are my respectful submissions before this Hon'ble Tribunal.

Date:

Place: CHAIBASA.

Prepared in my office \_\_\_\_\_  
and identified by me.

Chandra Mauli Prasad Sinha  
Deponent

28/2/22  
Advocate  
(P.K.)

Chandra Mauli Prasad Sinha  
Ms/Sri.....  
Who is identified by Advocate..... P.K. Nanda  
Solemnly affirm and declares before me

28.02.22  
PRADEEP KUMAR  
Notary Public, Chaibasa



SD  
28.02.22

Serial No. A **21603**

Before ..... at Chaibasa  
West Singhbhum (Jharkhand)

**AFFIDAVIT / शपथ पत्र / ALL NOTARIAL PURPOSE**

SD  
28.02.22



*[Large red signature scribble]*

Annex - 1



DIVISION  
**UNITED NATIONS**  
 REFERENCE  
**ECONOMIC**  
 AND CULTURAL  
**SOCIAL COUNCIL**



Distr.  
GENERAL

E/34.36  
15 February 1961

ORIGINAL: ENGLISH

Thirty-first session  
Agenda item 12

LIST OF NATIONAL PARKS AND EQUIVALENT RESERVES

Report by the Secretary-General

INTRODUCTION

1. The United Nations accorded recognition to the significance of national parks and equivalent reserves as an aspect of the wise use of natural resources when the Economic and Social Council adopted resolution 713 (XXVII) at its twenty-seventh session in 1959,<sup>1/</sup> which reads as follows:

"The Economic and Social Council,

"Noting that national parks and equivalent reserves have been established in most countries which are Members of the United Nations or the specialized agencies, and that they contribute to the inspiration, culture and welfare of mankind,

"Believing that these national parks are valuable for economic and scientific reasons and also as areas for the future preservation of fauna and flora and geologic structures in their natural state,

"1. Requests the Secretary-General to establish in co-operation with UNESCO, FAO, and other interested specialized agencies, a list of national parks and equivalent reserves, with a brief description of each, for consideration by the Council at its twenty-ninth session, together with his recommendations for maintaining and developing the list on a current basis and for its distribution; 2/

1/ This proposal originated from a resolution concerning national parks and reserves adopted by the Sixth General Assembly of the International Union for the Conservation of Nature and Natural Resources, held at Athens and Delphi, Greece, in 1958, transmitted to the Secretary-General of the United Nations.

2/ The response to the Secretary-General's invitation to Governments to furnish information for the list was inadequate for the submission of a list at the twenty-ninth session of the Council.

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English  
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"2. Invites States Members of the United Nations and of the specialized agencies to transmit to the Secretary-General a description of the areas they desire to have internationally registered as national parks or equivalent reserves; and

"3. Furthermore invites the International Union for Conservation of Nature and Natural Resources and other interested non-governmental organizations in consultative status to assist the Secretary-General, upon his request, in the preparation of the proposed list."

2. In accordance with the resolution, the International Union was asked to assist in the analysis of the material submitted by Governments and in the preparation of the list. The International Union assigned this responsibility to its International Commission of National Parks, which has been co-operating closely with the Secretariat of the United Nations and collaborating with the United Nations Educational, Scientific and Cultural Organization and the Food and Agriculture Organization.
3. Prior to 15 December 1960, fifty-two Governments had responded to the Secretary-General's memorandum of inquiry inviting them to furnish information about their national parks and equivalent reserves for consideration for inclusion in the list. It is proposed to issue the list in two parts: Part One, which has been completed and is submitted for consideration by the Council, represents a preliminary list of national parks and reserves in those countries whose Governments supplied information by 15 December 1960; Part Two will include information from those Governments wishing to add their national parks and reserves to the preliminary list, and appropriate revision and additions to the data that have already been included.
4. It is recommended that the International Union for the Conservation of Nature and Natural Resources be invited to undertake the preparation of Part Two of the list and subsequent additions to it, in consultation with the United Nations, the United Nations Educational, Scientific and Cultural Organization, the Food and Agriculture Organization and other interested specialized agencies. In view of the proposed first World Conference on National Parks to be held in Seattle, Washington, United States of America in July 1962, it is hoped that as comprehensive a list as possible will be completed for this Conference.
5. In compiling the material submitted, the definitions set forth in the Secretary-General's memorandum of inquiry were used as guiding principles. They were as follows:

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(a) The definition in the Convention Relative to the Preservation of Fauna and Flora in their Natural State, done at London, 8 November 1933, reads (Article 2, para. 1):

"1. The expression 'national park' shall denote an area (a) placed under public control, the boundaries of which shall not be altered or any portion be capable of alienation except by the competent legislative authority; (b) set aside for the propagation, protection and preservation of wild animal life and wild vegetation, and for the preservation of objects of aesthetic, geological, prehistoric, historical, archaeological, or other scientific interest for the benefit, advantage or enjoyment of the general public; (c) in which the hunting, killing or capturing of fauna and the destruction or collection of flora is prohibited except by or under the direction or control of the park authorities. In accordance with the above provisions facilities shall, so far as possible, be given to the general public for observing the fauna and flora in national parks."

(b) The definition in the Convention on Nature Protection and Wild Life Preservation in the Western Hemisphere, done at Washington, 12 October 1940, reads:

"1. The expression 'National Parks' shall denote: Areas established for the protection and preservation of superlative scenery, flora and fauna of national significance which the general public may enjoy and from which it may benefit when placed under public control." (Article 1, para. 1)

"... The resources of these reserves shall not be subject to exploitation for commercial profit." (Article 3, para. 1)

(c) The attention of Governments was also drawn to a definition of the term "equivalent reserves" suggested during the discussion at the twenty-seventh session of the Council by the representative of the United States of America, which reads:

"The term 'equivalent reserves' would apply to those areas which, although not specifically designated as national parks, qualified for inclusion in the international list as significant areas which were given equal protection and which corresponded to the definition given in the London Convention. The list would not include, on the other hand, many reserves such as those set aside for such purposes as the protection of forests, historic monuments or special game species."

6. The material received varied in style, and included comprehensive descriptions of the features and administration of individual national parks and reserves as well as statistical tabulations of various types of reservations. In addition to

/...

reserves that clearly came within the scope of the above definitions, some reserves ranged in size from a few hectares to thousands of square miles; these reserves are afforded varying degrees of protection depending on the particular purposes for which they were established. Accordingly, those national parks and reserves which appeared clearly to come within the definitions have been described briefly in this preliminary compilation, in those instances where such information was made available officially; other reserves have been listed or presented in tabular form; some of the reserves presented in tabular form will probably qualify for inclusion as national parks or equivalent reserves under the definitions when further information becomes available.

7. There has been wide-spread interest in the fact that the United Nations is issuing this list. A number of Governments have indicated that new legislative measures are now under consideration for the establishment and protection of national parks and equivalent reserves. Other Governments have indicated that they intend to submit additional areas for inclusion in the list. Yet other Governments have been so recently established that they have not completed their programmes for national park and reserve systems, and have expressed the hope that they may have an opportunity to add information on their areas for inclusion in the list. It has also been pointed out that the list will be of the greatest interest to the working party on wildlife management established by the Food and Agriculture Organization's African Forestry Commission.

8. So much valuable data have been received in response to the Secretary-General's request that the Council might wish to request the International Union for Conservation of Nature and Natural Resources to give consideration, on completion of Part Two of the list, to the publication and dissemination of the list for the benefit of all interested countries.

INDIA

National Parks

- Corbett National Park - 125 square miles in the Garhwal and Naini Tal Districts of the Uttar Pradesh Province - established in 1935. The park protects tiger, panther, sloth bear, elephant, spotted deer, hog deer, barking deer, sambhar, goral, pig, wild dog, hyena, porcupine, flying squirrel, pine marten, crocodile, python, red jungle fowl, kaleej pheasant, peafowl, black partridge, green pigeon, hill and emerald dove, hornbills and other wildlife.
- Hazaribagh National Park - 150 square miles in Hazaribagh District of the Bihar Province - established in 1955. The park protects tiger, panther, bear, sambhar, barking deer, blue bull, pig, peafowl and jungle fowl.
- Hailey National Park - 125 square miles in the Uttar Pradesh Province - established in 1935. Under the National Parks Act of 1935 of this Province, the Chief Conservator of Forests administers the Park; a management plan includes timber extraction by Forest Departments.
- Kanha National Park - 97.7 square miles in Mandla District of the Madhya Pradesh Province - established in 1956. The park covers the upper Banjar Valley and contains swamp deer, spotted deer, sambhar, blackbuck, bison, tiger, panther and gaur (Bibos gaurus). The area is noted for its scenic and forest beauty and for its easy view of large herds of hoofed animals.
- Shivpuri National Park - 61 square miles in Shivpuri District in the Madhya Pradesh Province. The park protects tiger, panther, bear, sambhar, spotted deer, blue bull, four-horned antelope, Indian gazelle, peafowl, spur fowl, and a variety of other birds.
- Tarora National Park - 45 square miles in Chanda District of the Bombay Province - established in 1956 (sanctuary since 1935). The park protects tiger, panther, sambhar, spotted deer, and bison.
- Tirap National Park - 800 square miles in the state of Assam by the northwest national boundary of India and China - established by Gazette Notification by the State of Assam. The Park comprises a remote area in an accessible mountain region, and is administered by the North East Frontier Agency.

SanctuariesAndhra Pradesh Province

Eturnagaram Sanctuary - 314 square miles in the Warangal District - established in 1953. The area contains tiger, panther, bear, bison, sambhar, spotted deer, blue bull, Indian gazelle, pig and crocodile.

Ikshawaku Sanctuary - 227.5 square miles in Nalgonda and Guntur Districts. The area contains tiger, panther, cheetah (probable), sambhar, barking deer, blue bull, blackbuck, four-horned antelope and giant squirrel.

Oswal Sanctuary - 500 square miles in Adilabad District. The area contains tiger, panther, bear, pig, bison, spotted deer, sambhar, barking deer, blue bull, blackbuck, etc.

Pakhal Sanctuary - 339 square miles in Warangal District - established in 1952. The area contains tiger, panther, bear, bison, sambhar, spotted deer, blue bull, India gazelle, pig and crocodile.

Pocharam Sanctuary - 50 square miles in Medak District - established in 1952. The area contains tiger, panther, bear and sambhar.

Shri Venkateshwara Sanctuary - 184 square miles in Chittoor and Guddapah Districts. The area contains bear, sambhar, spotted deer, black buck, pig and various birds.

Assam Province

Garampani Wild Life Sanctuary - 2.29 square miles in Sibsagar District along the Goleghat-Dinapur Road - established in 1952. The area contains bison, deer, elephant and a few rhinoceros.

Kaziranga Sanctuary - 166 square miles in Sibsagar District along the south banks of the Brahmaputra River - established in 1908. The area contains about 300 Great Indian rhinoceros and large number of other wildlife such as elephant, wild buffalo, deer and a variety of birds.

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North Kamrup Sanctuary - 105 square miles in Kamrup District along the north bank of the Brahmaputra River at the foot of the Bhutan Hills - established in 1905. The area contains rhinoceros, elephant, wild buffalo, bison, hog deer, swamp deer, barking deer, tiger, bear, pig, and other wildlife.

Pabha Sanctuary - 20 square miles in Lakhimpur District - established in 1941. The area contains wild buffalo and a variety of deer.

Sonai-Rupa Sanctuary - 85 square miles in Darrang District along the Abor foothills - established in 1934. The area contains elephant, bison, deer, a few rhinoceros, and a variety of birds.

#### Bihar Province

Bamiaburu Sanctuary - 50 square miles in Singhbhum District - established in 1946. The area contains tiger, panther, sambhar and birds.

Baresand Sanctuary - 22.94 square miles in Palamau District - established in 1946. The area contains tiger, panther, spotted deer, sambhar, bear, pig, bison, elephant, and various birds.

Dumka Damin Sanctuary - 35 square miles in Santhal Pargana District - established in 1938. The area contains panther, bear, deer, pig and other wildlife.

Koderma Sanctuary - 68 square miles in Hazaribagh District. The area contains tiger, panther, sambhar, barking deer, and bear.

Lat Sanctuary - 36 square miles in Palamau District - established in 1946. The area contains tiger, panther, bison, bear, sambhar, spotted deer, peafowl, jungle fowl and green pigeon.

Sasangdaburu Sanctuary - 7.5 square miles in Singhbhum District - established in 1936. The area contains tiger, elephant, bison, sambhar, spotted deer, barking deer, four-horned antelope and a variety of birds.

Tebo Sanctuary - 56 square miles in Singhbhum District - established in 1932. The area contains bison, sambhar, spotted deer, barking deer and various birds.

# 1973 United Nations List of National Parks and Equivalent Reserves

Prepared by the Secretariat of IUCN  
with the advice and guidance of the  
IUCN International Commission on National Parks



International Union for Conservation of Nature and Natural Resources  
1110 Morges, Switzerland  
1973

<b>49. Ghana</b>		
1. Mole National Park	466,200	1961
2* Digya National Park	312,436	1971
3. Bui National Park	154,368	1971
<b>50. Greece</b>		
1. Pindus National Park	12,935	1966
2. Samarias Ravines National Park (Crete)	4,850	1953
3. Mount Olympus National Park	3,998	
4. Parnassus National Park	3,512	1938
5. Mount Ainos National Park	2,841	1962
<b>51. Guatemala</b>		
1. Tikal National Park	57,600	1957
2. Atitlan National Park	19,300	1955
3. Rio Dulce National Park	9,600	1955
<b>52. Guinea</b>		
No areas qualify.		
<b>53. Guyana</b>		
1. Kaieteur National Park	11,655	1929
<b>54. Haiti</b>		
No information available.		
<b>55. Honduras</b>		
No information available.		
<b>56. Hong Kong</b>		
No areas qualify.		
<b>57. Hungary</b>		
1. Tihany National Park	1,100	1952
<b>58. Iceland</b>		
1. Skaftafell National Park	100,000	1967
2. Thingvellir National Park	4,000	1928
3. Eldey (Island) Nature Reserve	1.5	1940
<b>59. India</b>		
1.* Gir Wild Life Sanctuary (Gujarat)	126,422	1965
2. Periyar Wild Life Sanctuary (Kerala)	77,700	1940
3.* Corbett National Park (Uttar Pradesh)	52,547	1935
4.* Sariska Wild Life Sanctuary (Rajasthan)	49,182	1955
5. Kaziranga National Park (Assam)	42,994	1908
6. Mudumalai Wild Life Sanctuary (Madras)	32,116	1940

7.* Kanha National Park (Madhya Pradesh)	31,598	1935
8.* Manas Wild Life Sanctuary (Assam)	27,195	1928
9. Hazaribagh National Park (Bihar)	18,389	1955
10. Shivpuri National Park (Madhya Pradesh)	15,799	1955
11. Tarora National Park (Maharashtra)	11,654	1935
12.* Jaldapara Wild Life Sanctuary (West Bengal)	10,464	1941
13.* Borivli National Park (Maharashtra)	ca. 6,930	
14.* Bandipur Wild Life Sanctuary (Mysore)	5,695	1941
15. Keoladeo Ghana Bird Sanctuary (Rajasthan)	ca. 2,800	1956
16. Jaisamand Wild Life Sanctuary (Rajasthan)	5,267	1955

#### 60. Indonesia

1.* Gunung Leuser Reserves (Sumatra)	636,500	1936
2.* Mount Wilhelmina Reserve (Sumatra)	200,000	1938
3.* Berbak Reserve (Sumatra)	190,000	1935
4. Ujung Kulon Panaitan Nature Reserve (Java)	66,620	1921
5.* Komodo-Padar-Rintja-Wae Wuul Reserve	64,000	
6.* Meru Betiri Reserve (Java)	60,000	1966
7. Baluran Reserve (Java)	25,000	1937
8.* West Bali Reserve (Bali)	20,000	1941
9.* Gunung Indrapura Reserve (Sumatra)	12,530	1929
10.* Tjikepuh Reserve (Java)	10,000	
11.* Nusa Barung Reserve (Java)	6,000	1920
12.* Lautan Pasir Reserve (Java)	5,250	1919
13.* Padang Luwal (Kalimantan)	5,000	1934
14.* Gunung Tangkoko (Sulawesi)	4,446	1919
15.* Rimbopanti Reserve (Sumatra)	3,500	1932
16.* Kawah Idjen Reserve (Java)	2,560	1920
17.* Rawa Danau Reserve (Java)	2,500	1921
18. Krakatau Mountain (Sumatra)	2,500	1919
19.* Bengkulu Reserve (Sumatra)	2,448	1937
20.* Mandor Reserve (Kalimantan)	2,000	1936
21.* Panua Reserve (Sulawesi)	1,500	1938
22.* Ranu Kumbolo Reserve (Java)	1,340	1921
23.* Dusua Besar Reserve (Sumatra)	1,155	1936
24.* Tjibodas Reserve (Java)	1,040	1925

#### 61. Iran

1. Mohammed Reza Shah Wildlife Park	91,890	1964
2. Tandourch Wildlife Park	53,780	1970
3. Kolah Ghazi Wildlife Park	44,400	1970
4. Dez Wildlife Park	3,837	1970
5. Karkheh Wildlife Park	1,538	1970

#### 62. Iraq

No areas qualify.

#### 63. Ireland

1. Bourn Vincent Memorial Park	4,250	1932
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