

*The Budget Session 2023*

# THE GREEN HOUR

Volume 1 | Issue II | July 2023

**A Report on Parliamentary Proceedings  
on Environmental Matters**



## **IN THIS ISSUE**

*Budget of MoEFCC for FY 2023-24*  
*The Forest (Conservation) Amendment Bill, 2023*  
*Joint Committee on the Jan Vishwas (Amendment of Provisions) Bill, 2022*  
*Committee on Government Assurances*  
**NEW** *Beyond the Parliament*

by **V | D | H |** Centre for  
Legal Policy

# The Green Hour

## Report on

### Parliamentary

### Proceedings on

### Environmental

### Matters

Volume 1 | Issue II | The Budget Session 2023

July 2023

This is an independent, non-commissioned piece of work by the Vidhi Centre for Legal Policy, an independent think-tank doing legal research to help make better laws and improve governance for public good.

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# PREFACE

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In today's contemporary world, environmental issues have emerged as a matter of utmost importance, demanding immediate attention and concerted action from all segments of society. As the global community grapples with the far-reaching consequences of climate change and ecological degradation, the pivotal role of law and policy makers in shaping sustainable practices and safeguarding our precious natural resources has become more crucial than ever before.

This comprehensive report delves deeply into the multifaceted debates, critical questions, noteworthy discussions, and other parliamentary activities across political parties and States, encompassing both the Lok Sabha and Rajya Sabha. Going beyond a mere presentation of facts and statistics, this report offers valuable insights and astute analysis of the environmental landscape within the Indian parliamentary context. By examining the interactions between Members of Parliament and the relevant ministries, particularly the Ministry of Environment, Forest & Climate Change (MoEFCC), this report sheds light on the pivotal issues that have dominated parliamentary discussions, as well as the responses provided by the government. Through its objective analysis and insightful observations, the report empowers stakeholders to assess the effectiveness of parliamentary interventions, identify areas for improvement, and advocate for sustainable policies.

Recognizing that environmental governance extends beyond the confines of the Parliament, we have introduced a new chapter from this issue titled '*Beyond the Parliament.*' This chapter delves into critical legal and policy developments pertaining to the environment and the MoEFCC. By providing an in-depth examination of these pertinent matters, we aim to contribute to a broader understanding of the subject and encourage further discourse on the role of governance in environmental sustainability.

I would also like to take this opportunity to acknowledge the tremendous efforts, dedication, and passion exhibited by my team throughout the creation of this report. The Budget Session's continuous disruptions within the Parliament presented challenges, as it hindered effective tracking of speeches and debates. Additionally, collating data from the upgraded websites of both the Rajya Sabha and Lok Sabha proved to be a formidable task. However, we overcame these obstacles by personally following up with the Secretariat of the Parliament to access certain information that was not readily available at the time of our analysis. Furthermore, some of the information we sought was in inaccessible formats, such as scanned documents without Optical Character Recognition (OCR), which posed additional challenges for my colleague and co-author, Shashank, who is visually disabled. Shashank also highlighted the complexities involved in navigating the redesigned interfaces to retrieve the required information. Through this report, we also make a humble appeal to the Secretariat to take necessary steps to ensure that information is accessible and inclusive to all. I take immense pride in my team's ability to overcome these challenges and produce this report.

By meticulously examining parliamentary engagements and legal developments within the environmental domain, we aspire for this report to serve as an invaluable resource for researchers, policymakers, environmentalists, and concerned citizens alike. It aims to enhance



transparency and accountability in governance while fostering an informed public discourse on pressing environmental issues.



Debadityo Sinha

Lead, Climate & Ecosystems

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(New Delhi)

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# ABBREVIATIONS

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## Acronym

## Description

### *Political Parties*

AAP	Aam Aadmi Party
AITC	All India Trinamool Congress
BJD	Biju Janta Dal
BJP	Bharatiya Janta Party
BSP	Bahujan Samaj Party
CPI(M)	Communist Party of India (Marxist)
DMK	Dravida Munnetra Kazhagam
INC	Indian National Congress
IUML	Indian Union Muslim League
JD(U)	Janta Dal (United)
JMM	Jharkhand Mukti Morcha
KCM	Kerala Congress (M)
MDMK	Marumalarchi Dravida Munnetra Kazhagam
RJD	Rashtriya Janata Dal
SS	Shiv Sena
TMC(M)	Tamil Maanila Congress (Moopanar)
YSR Congress	Yuvajan Sramika Rythu Congress

### *Legislations and Conventions*

BDA Bill	Biological Diversity (Amendment) Bill, 2022
BDA	Biological Diversity Act, 2002
CITES	Convention on International Trade in Endangered Species of Wild Flora and Fauna
EPA	Environment (Protection) Act, 1986
FCA	Forest (Conservation) Act, 1980
FCA Bill	Forest (Conservation) Amendment Bill, 2023



FRA	The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006
IFA	Indian Forest Act, 1926
OAMDR	Offshore Areas Mineral (Development and Regulation) Act, 2002

### ***Reports***

DPR	Detailed Project Report
ISFR	Indian State of Forest Report

### ***Institutions and Governmental Bodies***

BSI	Botanical Survey of India
CAQM	Commission for Air Quality Management
CGA	Committee on Government Assurances
CPCB	Central Pollution Control Board
CRZA	Coastal Regulation Zone Authority
CZA	Central Zoological Authority
EAC	Expert Appraisal Committee
FSI	Forest Survey of India
GSI	Geological Survey of India
IIFM	Indian Institute of Forest Management
LS	Lok Sabha
MoEFCC	Ministry of Environment, Forest & Climate Change
NBA	National Biodiversity Authority
NBWL	National Board for Wildlife
NGT	National Green Tribunal
NTCA	National Tiger Conservation Authority
RS	Rajya Sabha
SBB	State Biodiversity Board
SC	Supreme Court
SEIAA	State Environment Impact Assessment Authority
SPCB	State Pollution Control Board
UT	Union Territory

UTBC	Union Territory Biodiversity Council
WCCB	Wildlife Crime Control Bureau

***Schemes/ Programs***

CAMPA	Compensatory Afforestation Fund Management and Planning Authority
CoP	Conference of Parties
CS	Central Sector Scheme
CSS	Central Sponsored Schemes
EPR	Extended Producer Responsibility
GIM	Green India Mission
MISHTI	Mangrove Initiative for Shoreline Habitats & Tangible Incomes
NAPCC	National Action Plan for Climate Change
NCAP	National Clean Air Program
NDC	Nationally Determined Goals
NPCA	National Plan for Conservation of Aquatic Ecosystems

***Miscellaneous***

IBCA	International Big Cat Alliance
B.E.	Budget Estimate
CRZ	Coastal Regulation Zone
EC	Environmental Clearance
ESZ	Eco-sensitive Zone
ha	Hectares
HLWG	High-Level Working Group
MP	Member of Parliament
PLI	Public Liability Insurance
R.E.	Revised Estimates
SM	Special Mention

# EXECUTIVE SUMMARY

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The Green Hour is a periodical that traces environment-related developments during the parliamentary sessions. The first edition of the series covering the 2022 Winter-Session was released in January 2023. This Report is the second edition of The Green Hour and covers the Parliament's Budget-Session (January-April) 2023. The report collates data from official sources and presents it in a manner that facilitates convenient access, engagement and understanding of parliamentary proceedings with respect to environmental issues.

The report is organized into 7 Chapters. In [Chapter 1](#), we lay out the utility, purpose, and scope of this report. In [Chapter 2](#), we decode the responses of the Ministry of Environment, Forest & Climate Change (“**MoEFCC**”) to the questions filed with it by various Members of Parliament (“**MPs**”). It also covers environment-related issues raised by the MPs with respect to their States/ Union Territories. The responses by MoEFCC are categorised into 10 subject-wise themes and analysed in detail to give deeper insights into the issues occupying the most space in the questions by MPs.

In [Chapter 3](#), the main highlights from the budget with reference to the MoEFCC; issues related to the Forest (Conservation) Amendment Bill, 2023 (“**FCA Bill**”); and the report of the Joint Committee on the Biological Diversity (Amendment) Bill, 2021 (“**JC-BDA Bill**”) are discussed. In [Chapter 4](#), other interventions in the Parliament, such as the Zero-Hour, Special Mentions, etc., are summarily discussed.

In [Chapter 5](#), we analyse relevant committee reports discussed or tabled during the Budget-Session. In [Chapter 6](#), titled ‘Beyond the Parliament’, we discuss important legal and policy developments related to the environment and MoEFCC.

The following are the key highlights of the Budget-Session of the Parliament:

## ***I. Responses of MoEFCC in the Parliament during Question Hour***

In total, the government answered 10,371 questions in both houses of Parliament, of which 4,371 were in the Rajya Sabha (“**RS**”) and 6,000 in the Lok Sabha (“**LS**”). The MoEFCC responded to 399 questions, which accounts for 3.85% of the total number of questions. This includes 205 in the LS and 194 in the RS.

Most of the questions responded to by the MoEFCC were filed by MPs from Maharashtra (76), Uttar Pradesh (68), Andhra Pradesh (51), Kerala (40), and West Bengal (36). There was a significant increase in the number of questions from North-East India and Himalayan States compared to the last session of Parliament.

The highest number of responses (178) in this session were related to the functioning of various institutions such as Pollution Control Boards, Compensatory Afforestation Fund Management and Planning Authority, Forest Survey of India, etc. This was followed by responses related to Environmental Management (144), Conservation of Ecosystems (133), Climate Change (74), Species and Habitats (69), Landscapes of Special Importance (38), Environmental Permissions (37), Developmental Activities (37), Protected Landscapes (37), and Forest Regulation (20). A detailed analysis of each of these themes is provided in [Chapter 2](#).



## **II. Bills Introduced in the Parliament**

The MoEFCC introduced the FCA Bill in the LS in March 2023, proposing amendments to the Forest (Conservation) Act, 1980. The revised version of the Biological Diversity Amendment Bill, 2021 was also moved in February 2023 after receiving comments/suggestions from the JC-BDA Bill. No Private Member Bills were introduced in this session. Further details can be accessed in [Chapter 3](#).

## **III. Interventions by MPs to Raise Environmental Matters**

In LS, 8 out of 133 Zero-Hour notices and 61 out of 436 Rule 377 interventions and in RS, 2 out of 13 Special Mentions and 2 out of 30 Zero-hour notices were related to environmental matters. It is discussed in detail in [Chapter 4](#).

## **IV. Committee Reports**

The Department-Related Parliamentary Standing Committee on Science and Technology, Environment, Forests and Climate Change in its 378<sup>th</sup> report considered Demand-For-Grants pertaining to the MoEFCC for B.E. 2023-24. The Joint Committee on the Jan Vishwas (Amendment of Provisions) Bill, 2022 submitted its report in the Parliament. Both reports are discussed in detail in [Chapter 5](#).

## **V. Beyond the Parliament**

The Committee on Government Assurances, in its 76<sup>th</sup> Report, submitted a review of pending assurances pertaining to the MoEFCC. As per the report, there were 49 assurances pertaining to the MoEFCC pending implementation. The committee reviewed 3 pending assurances of the MoEFCC and made detailed observations/ recommendations on the same.

The MoEFCC notified Breeders of Species Licence Rules in April 2023 which lay down the procedure for granting of licence to any person who is engaged or intends to breed in captivity or artificially propagating a scheduled specimen listed in Appendix I to Schedule IV of the Wild Life (Protection) Act, 1972. The MoEFCC also published the '*Draft Hazardous and Other Wastes (Management and Transboundary Movement) Amendment Rules, 2023*' in May 2023 which aims to regulate Extended Producers Responsibility for used oil. Recently, the '*Draft Green Credit Programme Implementation Rules, 2023*' was published by the MoEFCC for public consultation.

The Ministry of Mines published draft amendments to the Offshore Areas Mineral (Development and Regulation) Act, 2002 for public consultation in February 2023. The Ministry of Fisheries, Animal Husbandry and Dairying published the Live-stock and Live-stock Products (Importation and Exportation) Bill, 2023 in June 2023 for public comments but later withdrew it.

The abovementioned matters are discussed in detail in [Chapter 6](#).



# 1. INTRODUCTION

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The Parliament of India (“**Parliament**”) has two houses: Lok Sabha (“**LS**”) and Rajya Sabha (“**RS**”). Members of Parliament (“**MPs**”) in LS represent the constituency from which they are elected, whereas MPs in RS represent States and Union Territory (“**UT**”). Both houses generally have three sessions in a year to undertake their proceedings: Budget (January-April), Monsoon (July-August), and Winter (November-December). Laws and policies are debated, discussed, and decided in these sessions.

*The Green Hour* is a periodical summarising analysis of each of these parliamentary sessions from the environmental perspective. The scope and content of the report are continuously evolving based on the feedback from our readers. In its inaugural edition in January 2023, the deliberations of the Winter-Session of the Parliament were published.<sup>1</sup> The issue adeptly summarized and analysed these discussions, providing readers with a comprehensive overview of the proceedings as well as advancing awareness and understanding of the political debates in environmental law-making process. Through this effort, we expect to improve accountability of the elected representatives towards environmental protection and help identify critical issues which requires greater attention in law and policy.

Moving forward, the present issue focuses on the Budget-Session of the Parliament, a significant and extensive session typically held from January to April. Budget-Session is known as the longest session among all, it plays a pivotal role in shaping the fiscal policies and priorities of the nation. This issue is anticipated to provide readers with an in-depth understanding of the parliamentary decision-making process with a special focus on budgetary allocation and deliberations on the financial allocation for environmental protection in the Parliament.

## A. Methodology

The information for the report, including questions, debates, bills, interventions, etc. was obtained from the official websites of the RS and LS,<sup>2</sup> and the video recordings of parliamentary proceedings available on the Sansad TV’s website<sup>3</sup> and official YouTube channel.<sup>4</sup> The authors have also relied on the uncorrected version of the debates as available on the official websites.

Responses by the MoEFCC to questions of MPs were selected and further categorised under various environmental themes depending upon the issues and subjects they cover. As there is intersectionality between subjects, some responses may have been categorised under multiple themes. The authors decided on the list of subjects and issues under each theme based on their domain knowledge. The information was documented and analysed using the computer application Microsoft Excel and was manually peer-reviewed. Names of MPs were clubbed in responses by MoEFCC to questions on the similar subject. Thus, a single question can have names of multiple MPs. The geographical representation of questions depicts the percentage of the MPs from a State/ UT/ region vis-à-vis the number of environment-related responses

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<sup>1</sup> Shashank Pandey, Debadityo Sinha, ‘The Green Hour (Vol. 1, Issue I)’ (Vidhi Centre for Legal Policy) <<https://vidhilegalpolicy.in/research/the-green-hour-vol-1-issue-i/>> accessed 5 July 2023

<sup>2</sup> Lok Sabha, Parliament of India, <<https://sansad.in/lb>>; Rajya Sabha, Parliament of India, <<https://sansad.in/rs>>

<sup>3</sup> SansadTV, <<https://sansadtv.nic.in/>>

<sup>4</sup> SansadTV, YouTube Channel, <<https://www.youtube.com/@SansadTV>>

from that geography. For our analysis on geographical representation, we have counted all MPs whose names feature in individual responses. Hence, the total number of questions asked by different States and UTs will be higher than total number of questions in respective house.

For our analysis on bills, debates, committee reports and other interventions, the information is derived from respective house website for the Budget-Session. The document containing uncorrected version of debates for all days in LS and RS was read by authors to identify important legislations and interventions. Arguments of MPs were derived from their speeches and drafted coherently. The authors have tried to make the debates and speeches easy to understand for the readers by giving them the necessary context and ensuring a smooth flow of the argument. Such information is gathered from official government sources and Parliament record available in public domain.

For updates under the chapter 'Beyond the Parliament', authors have relied upon the official website of the Ministry of Environment Forest and Climate Change ("MoEFCC") and other governmental institutions, gazette notifications, etc. The section provides an update of development outside the Parliament.

## **B. Limitations**

The authors have attempted to put forward an objective analysis of the proceedings of both the houses of the Parliament on environmental matters. However, this analysis may suffer from two limitations.

First, the authors collected and analysed the information based on their subjective knowledge and cannot be certain that the data is exhaustive.

Second, some of the parliamentary proceedings, such as responses to questions, speeches, interventions, etc. required interpretation to some extent. Therefore, the assessment criteria devised by the authors may suffer from personal opinions and biases. The authors have tried to minimise these limitations by undertaking an internal peer-review process.

# 2. DECODING PARLIAMENTARY QUESTIONS

## A. Overview of MOEFCC's Responses

In the Budget-Session of the Parliament, a total of 10,371 questions were responded to by the government (6000 in LS and 4371 in RS). Of these, 399 questions (3.85%) were responded to by MoEFCC (205 in LS and 194 in RS). A compilation of all responses by the MoEFCC used for this analysis is freely accessible at <https://bit.ly/sansad-budget-2023>.

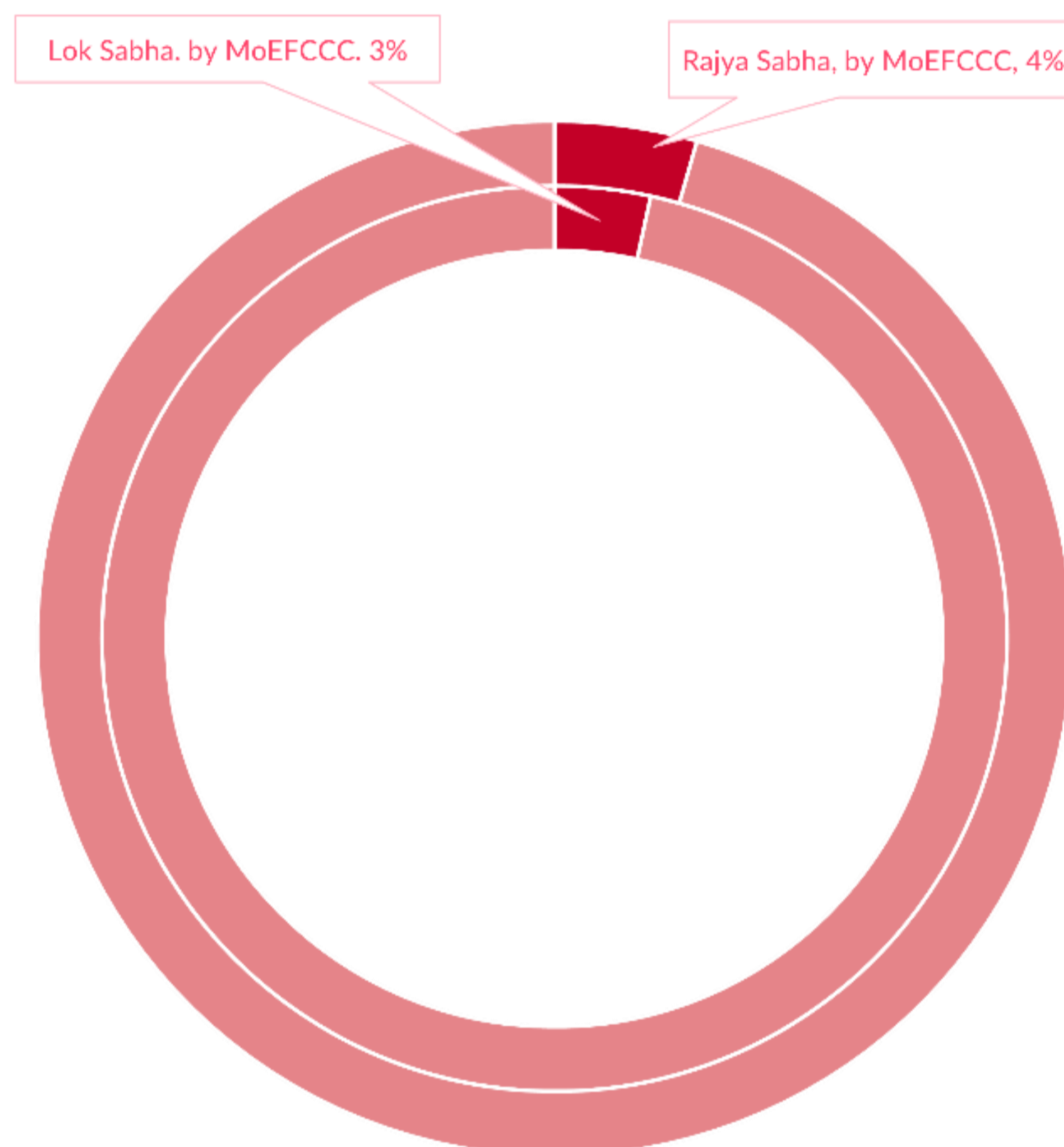


Figure 1. Percentage of questions responded to by the MoEFCC out of the total questions answered by the Government of India in each house of the Parliament.

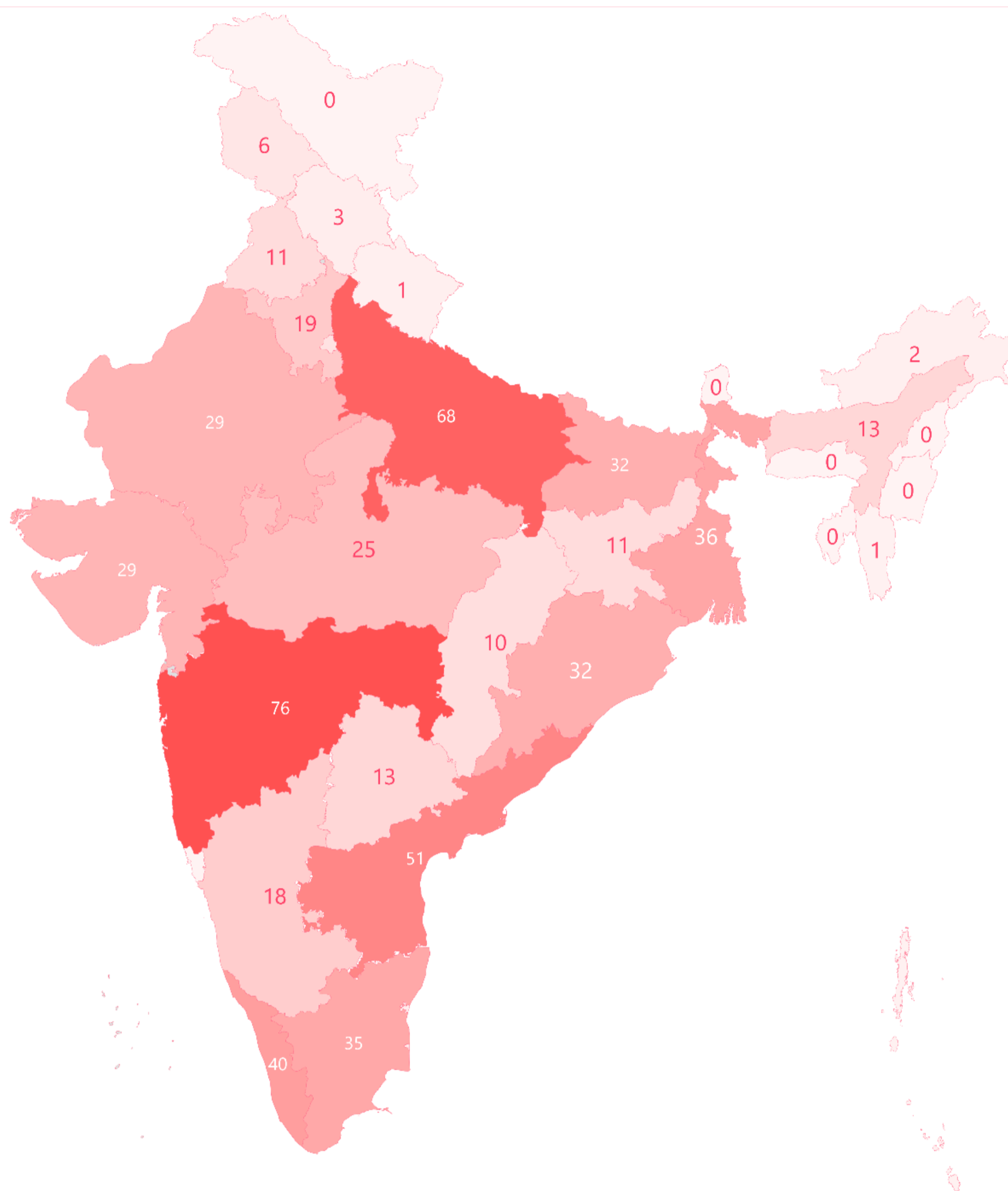
## B. Geographical Representation

Most of the questions responded to by the MoEFCC were filed by MPs from Maharashtra (76), Uttar Pradesh (68), Andhra Pradesh (51), Kerala (40) and West Bengal (36).

Uttar Pradesh with 14.2% representation in the Parliament, which is the maximum from any State, contributed to 17% of the questions. Maharashtra with 8.6% representation, contributed to 19% of the questions. Andhra Pradesh, with 4.7% representation, contributed to 12% of the questions while Kerala with only 4% of representation, contributed to 10% of the



questions. Evidently, Maharashtra, Kerala and Andhra Pradesh contributed significantly more in proportion to their representation.



**Figure 2. State/UT-wise representation of the number of MPs asking questions to the MoEFCC in Parliament. Base Map credit: Bing Maps (Disclaimer: Information is collated for all MPs whose questions were responded to in the session. Sometimes MPs' names are clubbed under one question by the MoEFCC while responding. Hence, the total number of MPs asking questions will be greater than the total number of questions.)**

The North-East region has 37 MPs (representing 4.8% of the total strength of the Parliament) from Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, and Tripura. In the Budget-Session, questions were asked by 16 MPs from this region. MPs from Assam asked most of them. This shows an increased participation from the North-Eastern States from the last session, wherein roughly 2% of total questions were asked from this ecologically sensitive region of the country.<sup>5</sup> In this session, almost 4% of the total questions analysed are from these States.

The North-Himalayan region representing Himachal Pradesh, Jammu & Kashmir (“J&K”), Ladakh, Sikkim, and Uttarakhand also saw increased participation in this session. In the

<sup>5</sup> n1



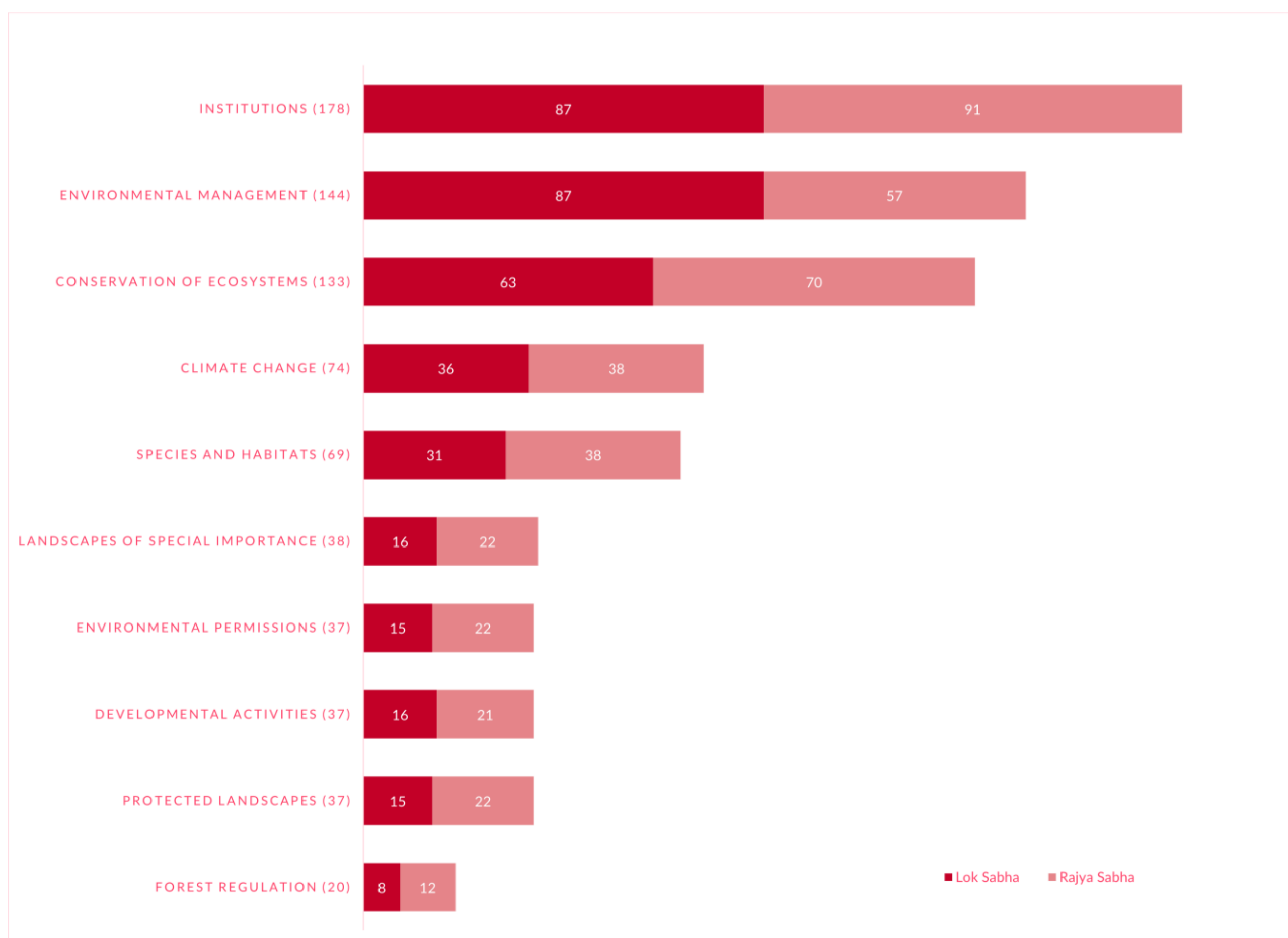
previous session, only 1 question was asked from this region which has a combined strength of 37 MPs (24 in LS and 13 in RS), representing 4.8% of the total strength of the Parliament.<sup>6</sup> In the Budget-Session, a total of 10 MPs from this region asked questions, with MPs from J&K asking the most.

A map containing State and UT-wise information on the number of questions responded to by the MoEFCC is provided in [Figure 2](#).

## C. Analysis of The Issues Responded to By the MoEFCC

The MoEFCC’s responses to environment-related questions were categorised under 10 broader themes encompassing various subject matter. The purpose is to analyse the recurrence of these themes in the responses to understand the focus areas of the MPs during this Budget-Session.

Incidentally, some of the responses fall under more than one theme, and the overlap has been duly accounted for in the analysis. The theme-wise data is provided in [Figure 3](#) and their analysis is in the following section.



**Figure 3.** Number of responses by MoEFCC under respective themes.

<sup>6</sup> Ibid

## I. Institutional Functioning

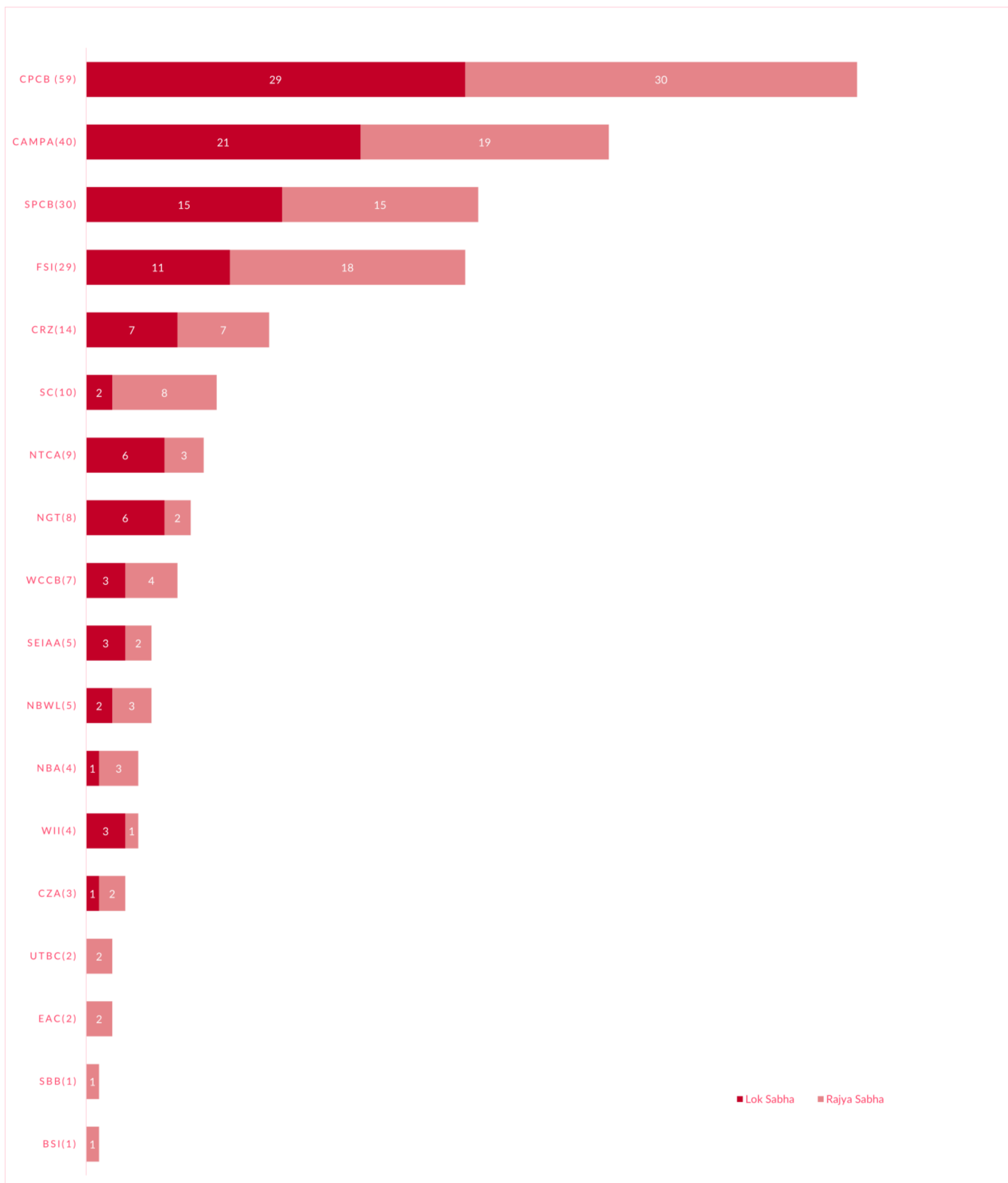


Figure 4. Number of responses by MoEFCC related to institutional functioning.

This theme covers responses by the MoEFCC on the functioning of various boards, institutions, authorities etc. constituted under various environmental legislations. There were 178 responses under this theme, which is the highest number among all the 10 themes covered in this report.

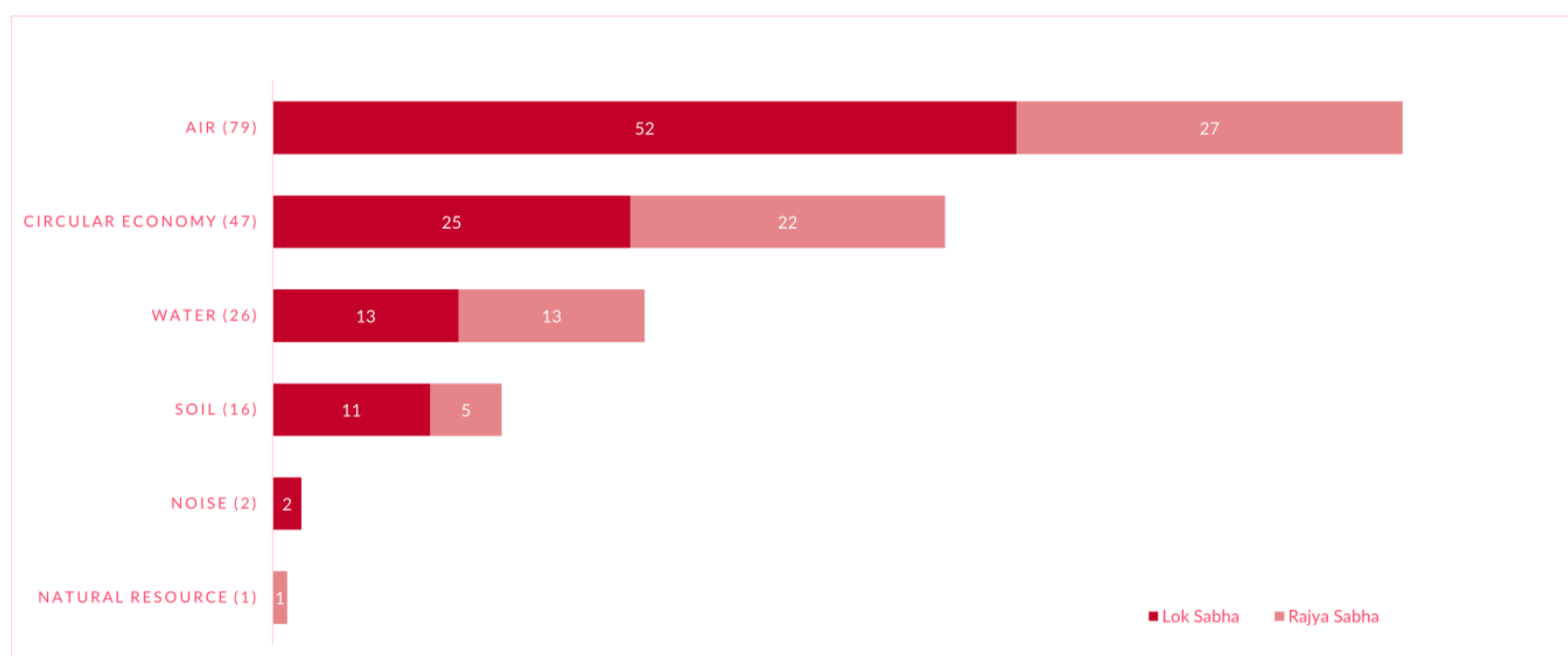
Issues involving the role of Central Pollution Control Boards (“CPCB”) were most frequently addressed, followed by Compensatory Afforestation Fund Management and Planning

Authority (“CAMPA”), the State Pollution Control Boards (“SPCBs”), Forest Survey of India (“FSI”), Coastal Regulation Zone Authority (“CRZA”), Supreme Court (“SC”), National Tiger Conservation Authority (“NTCA”), National Green Tribunal (“NGT”), Wildlife Crime Control Bureau (“WCCB”), National Board for Wildlife (“NBWL”), State Environment Impact Assessment Authority (“SEIAA”), National Biodiversity Authority (“NBA”), Wildlife Institute of India (“WII”), Central Zoo Authority (“CZA”), Expert Appraisal Committee (“EAC”), State Biodiversity Board (“SBB”), Union Territory Biodiversity Council (“UTBC”) related issues.

A graphical representation of the responses for respective institutions is provided in [Figure 4](#).

## II. Environmental Management

This theme covers those responses which address general environment and pollution-related issues. A total of 144 responses were related to environmental management. Air quality was the most common topic and was part of 79 responses, which is also the highest among all the environmental issues analysed for this session. National Clean Air Program (“NCAP”)<sup>7</sup> and Commission for Air Quality Management were most frequently mentioned under the responses on air quality.<sup>8</sup>



**Figure 5. Number of responses related to environmental management.**

Under the head of circular economy, which is the second most asked query, 47 questions were addressed. Plastic pollution and management were the most recurring subjects. Extended Producer Responsibility (“EPR”) provided under the new Waste Management Rules<sup>9</sup> was also one of the frequently addressed question under circular economy. This was followed by water related subjects. The questions on water primarily dealt with treatment of wastewater<sup>10</sup> and pollution and rejuvenation of rivers.<sup>11</sup>

<sup>7</sup> ‘NCAP’, Central Pollution Control Board, <<https://prana.cpcb.gov.in/#/home>> accessed 20 June 2023

<sup>8</sup> Question No. 2603, “Targets achieved under National Clean Air Programme” Rajya Sabha, Parliament of India, 23 March 2023

<sup>9</sup> E-Waste (Management) Rules, 2022, Central Pollution Control Board, <[https://cpcb.nic.in/uploads/Projects/E-Waste/e-waste\\_rules\\_2022.pdf](https://cpcb.nic.in/uploads/Projects/E-Waste/e-waste_rules_2022.pdf)> accessed 20 June 2023

<sup>10</sup> Question No. 3889, “Setting up of Sewage treatment plant”, Rajya Sabha, Parliament of India, 6 April 2023

<sup>11</sup> Question No. 1929, “National River Conservation Program”, Lok Sabha, Parliament of India, 13 March 2023

Soil related issues were the next most frequent questions. It primarily dealt with issues around erosion.<sup>12</sup> Noise pollution and natural resources got addressed the least in responses of MoEFCC to the questions.<sup>13</sup>

A detailed analysis of the responses related to environmental management is provided in Figure 5.

### III. Conservation of Ecosystems

Under this theme, issues pertaining to different ecosystems are collated. This theme was reflected in 133 responses by the MoEFCC. Forests appeared the most in the questions and responses. Subjects like compensatory afforestation,<sup>14</sup> forest cover, Nagar Van Scheme,<sup>15</sup> forest survey, forest fires etc. were predominantly discussed. Most questions under forest ecosystem addressed forest cover either in the country<sup>16</sup> or in respective States.<sup>17</sup>

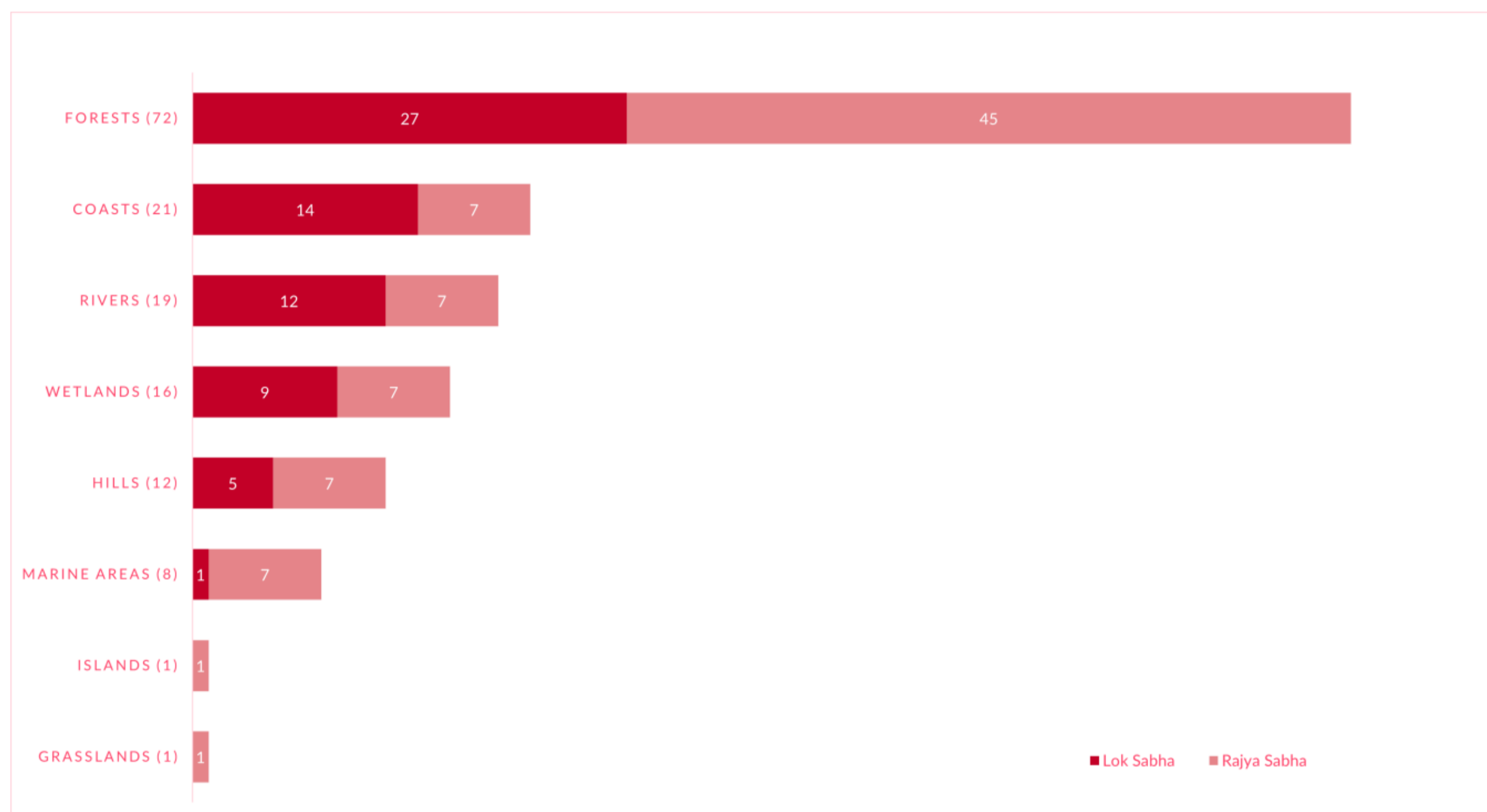


Figure 6. Number of responses related to the conservation of various ecosystems.

Similarly, under the management of coasts, questions mainly focused on the National Coastal Mission (“NCM”)<sup>18</sup> and the vulnerability of coastal areas to climate change.<sup>19</sup> The subject of rivers broadly appeared with reference to pollution and rejuvenation of rivers. MoEFCC informed that it had entrusted the Indian Council of Forestry Research and Education (“ICFRE”), Dehradun, to prepare Detailed Project Report for the rejuvenation of 13 major

<sup>12</sup> Question No. 5279, “Extraction of Sand”, Lok Sabha, Parliament of India, 3 April 2023

<sup>13</sup> Question No. 5162, “New Policy to control Noise Pollution”, Lok Sabha, Parliament of India, 3 April 2023

<sup>14</sup> Question No. 5199, “Afforestation program”, Lok Sabha, Parliament of India, 3 April 2023

<sup>15</sup> ‘Nagar Van Yojana’, PIB, <<https://pib.gov.in/pib.gov.in/Pressreleaseshare.aspx?PRID=1846954>> accessed 20 June 2023; Question No. 3026, “Nagar Van Yojana”, Lok Sabha, Parliament of India, 20 March 2023

<sup>16</sup> Question No. 3078, “Forest Cover in India”, Lok Sabha, Parliament of India, 20 March 2023

<sup>17</sup> Question No. 3893, “Expansion of forest cover in Jharkhand”, Rajya Sabha, Parliament of India, 6 April 2023

<sup>18</sup> Question No. 3069, “National Coastal Mission”, Lok Sabha, Parliament of India, 20 March 2023

<sup>19</sup> Question No. 857, “Erosion in Coastal areas”, Rajya Sabha, Parliament of India, 9 February 2023



Indian rivers, namely Jhelum, Chenab, Ravi, Beas, Sutlej, Yamuna, Brahmaputra, Luni, Narmada, Godavari, Mahanadi, Krishna, and Cauvery through forestry intervention.<sup>20</sup>

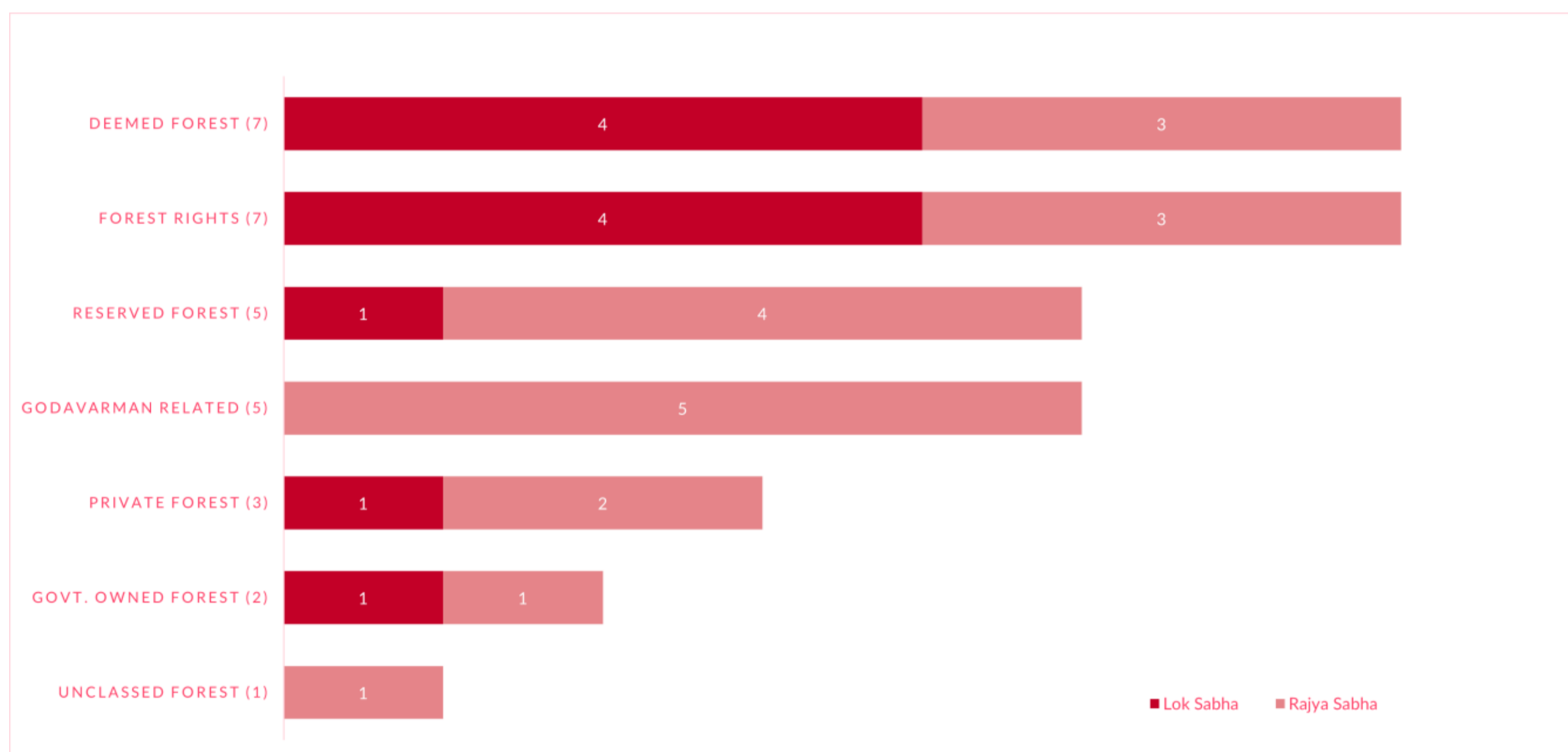
For wetlands, the questions primarily dealt with the extent and conservation of wetlands. MoEFCC informed that as per the "National Wetland Decadal Change Atlas, 2017" a total of 2,31,195 wetlands (at 1:50000 scales and area >= 2.25 ha) have been mapped in the country. The total wetland area estimated is 15.98 million hectares (mha), including rivers and excluding paddy field areas which are around 4.86% of the country's geographic area. MoEFCC also revealed that scientific details regarding the degraded wetlands in the country are not available.<sup>21</sup>

Under the hill's ecosystem, all questions were related to the vulnerability of the Himalayas to the climate change and extreme weather events happening in the region.<sup>22</sup> Other ecosystems such as grasslands and islands did not receive much attention in the Parliament.

A detailed analysis and graphical representation of the responses for respective ecosystems is provided in the [Figure 6](#).

## IV. Forest Regulations

This theme deals with the questions by the MPs on different categories of forests, their management, and regulation. Out of the 20 responses on this topic, issues of deemed forests and forest rights were discussed the most, followed by concerns around reserved forests like encroachment and the areas that fall under the category addressed in the SC judgement in T.N. Godavarman vs. UOI ("**Godavarman judgment**").<sup>23</sup> Questions related to private, or government owned forest and unclassed forest didn't receive sufficient attention.



**Figure 7.** Number of responses related to forest regulations.

<sup>20</sup> Question No. 2604, "Rejuvenation of rivers in the country", Rajya Sabha, Parliament of India, 23 March 2023

<sup>21</sup> Question No. 5073, "Assessment of the Wetlands", Lok Sabha, Parliament of India, 3 April 2023

<sup>22</sup> Question No. 2586, "Ecological survey of the Indian-Himalayan Region", Rajya Sabha, Parliament of India, 23 March 2023

<sup>23</sup> T.N. Godavarman Thirumulkpad v. Union of India & Ors., [1997] 2 SCC 267

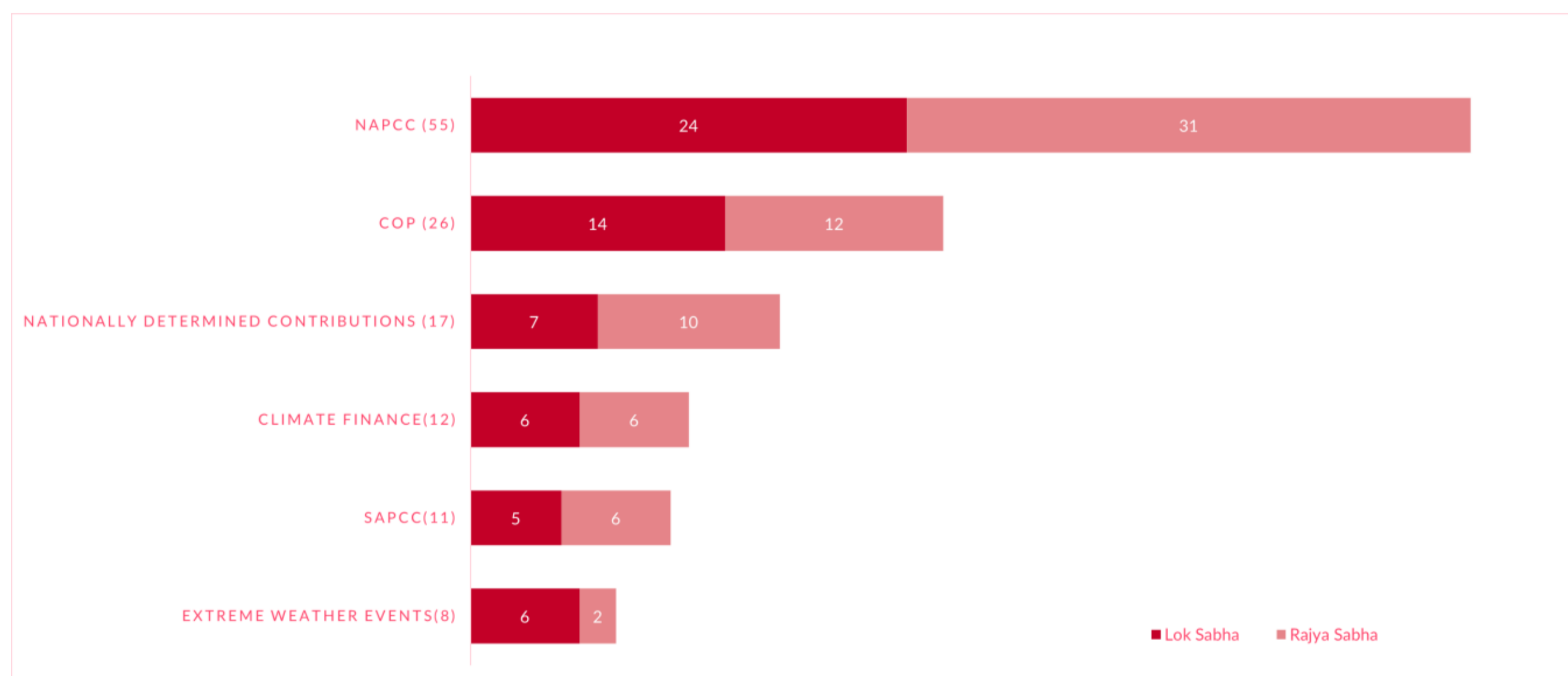
In response to a question in the LS, the MoEFCC provided details of the forest area under encroachment in different States. Almost 7,00,000 ha of forest area is under encroachment in the country, approximately 3,77,532.63 ha of which is in Assam.<sup>24</sup> In another response, MoEFCC also informed about the change in forest cover (from 2011 data) in the hilly districts of Himalayan States. In total, a net decrease in forest cover of 2,66,800 ha was observed. The maximum loss of forest cover during the period was observed in the Ladakh district, recording a loss of 4,21,100 ha since 2011.<sup>25</sup>

A detailed analysis and graphical representation of the responses for issues related to forest regulation is provided in [Figure 7](#).

## V. Climate Change

74 responses touched upon various themes related to climate change. The National Action Plan for Climate Change (“**NAPCC**”)<sup>26</sup> appeared most frequently, especially with reference to the National Mission for Green India (“**GIM**”),<sup>27</sup> which was repeatedly mentioned under various responses related to afforestation, forest cover, etc. as well. Climate change-related issues were also discussed heavily in the backdrop of the Conference of Parties (“**CoP**”), followed by commitments under Nationally Determined Contributions (“**NDC**”), Climate Finance,<sup>28</sup> State Action Plans on Climate Change and extreme weather events like hailstorms, floods, etc.

A detailed analysis and graphical representation of the responses for issues and matters of climate change is provided in [Figure 8](#).



**Figure 8.** Number of responses related to climate change.

<sup>24</sup> Question No. 3077, “Encroachment of Land”, Lok Sabha, Parliament of India, 20 March 2023

<sup>25</sup> Question No. 2587, “Forest cover in the Himalayan States”, Rajya Sabha, Parliament of India, 23 March 2023

<sup>26</sup> ‘National Action Plan on Climate Change (NAPCC)’, PIB, <<https://static.pib.gov.in/WriteReadData/specificdocs/documents/2021/dec/doc202112101.pdf>> accessed 20 June 2023

<sup>27</sup> ‘Targets Sets under Green India Mission’, PIB, <<https://pib.gov.in/pib.gov.in/Pressreleaseshare.aspx?PRID=1813175>> accessed 20 June 2023

<sup>28</sup> ‘Introduction to Climate Finance | UNFCCC’ <<https://unfccc.int/topics/introduction-to-climate-finance>> accessed 26 June 2023

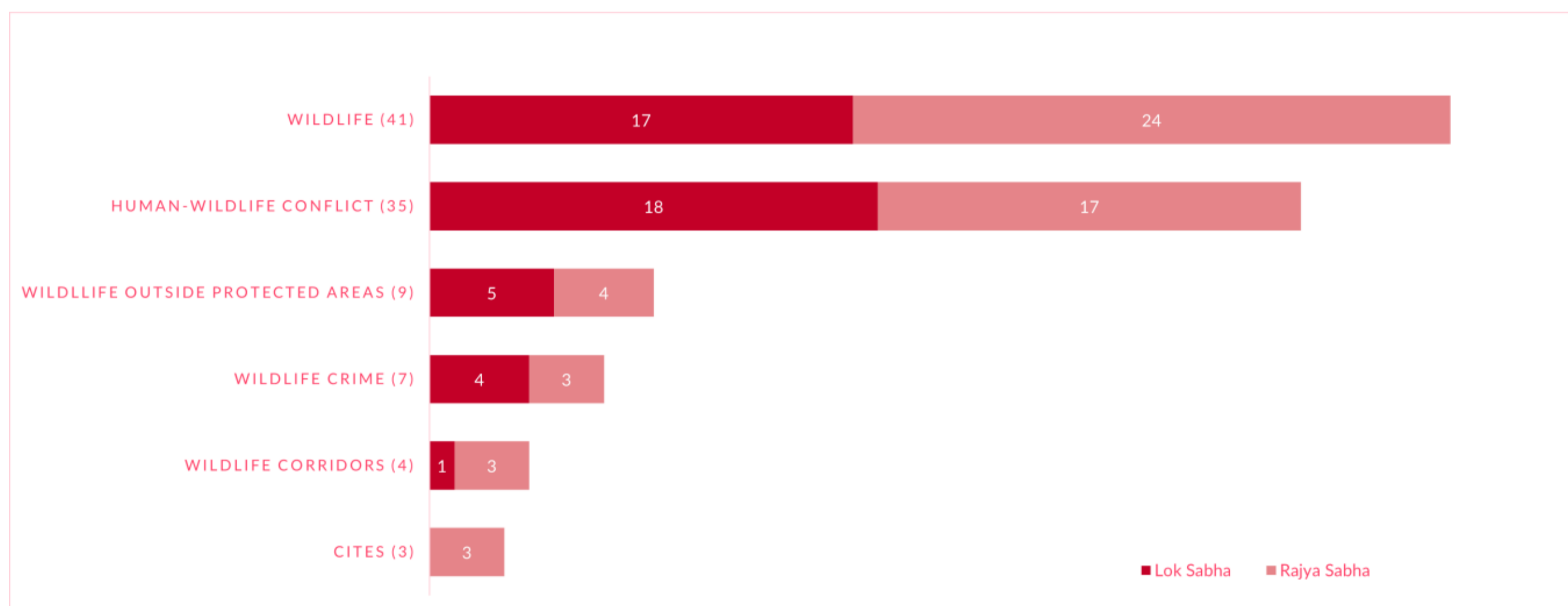
## VI. Species and Habitats

Issues related to conservation of wildlife and related subjects are collated under this theme. A total of 69 such responses were addressed by the MoEFCC. Wildlife was the most common subject under this theme wherein issues like, the population and conservation of wild animals like Cheetahs, Tigers, and Elephants were discussed the most.<sup>29</sup> Increasing cases of human-wildlife conflict were raised as the next most important concern under this theme. For instance, in LS, the MoEFCC informed that there were 15 elephant deaths due to a train accident in 2021-22, 535 human casualties because of human-elephant conflicts in 2021-22 and 106 human casualties because of human-tiger conflicts in 2022. Increasing incidents of monkey menace were also addressed under a few responses.<sup>30</sup>

Other aspects covered under the species and habitat themes were related to wildlife outside protected areas especially in buffer zones and Eco-Sensitive Zones (“ESZs”).<sup>31</sup>

Wildlife crime was the next most frequent issue being asked under the theme. Questions were posed with reference to the threat to endangered species<sup>32</sup> such as the trade of ivory, wherein in 2022, 105 kg of raw ivory and 119 ivory artifacts were seized.<sup>33</sup> Other entries under the theme were related to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (“CITES”) and wildlife corridors.<sup>34</sup> A separate chapter on CITES was introduced through an amendment in the Wild Life (Protection) Act, 1972 (“WPA”) passed in the last parliamentary session. The discussion on the Wild Life (Protection) Amendment Bill, 2022 was covered in the previous edition of The Green Hour.<sup>35</sup>

A detailed analysis and graphical representation of the responses for issues related to Species and Habitat is provided in **Figure 9**.



**Figure 9.** Number of responses related to the conservation of species and habitats.

<sup>29</sup> Question No. 2588, “Population of tigers, lions and leopards”, Rajya Sabha, Parliament of India, 23 March 2023

<sup>30</sup> Question No. 2032, “Deaths/Injuries due to Monkey Bites”, Lok Sabha, Parliament of India, 13 March 2023

<sup>31</sup> Question No. 5123, “Attack by wild animals”, Lok Sabha, Parliament of India, 3 April 2023

<sup>32</sup> Question No. 4363, “Endangered wildlife species”, Lok Sabha, Parliament of India, 27 March 2023

<sup>33</sup> Question No. 3103, “International Trade of Ivory”, Lok Sabha, Parliament of India, 20 March 2023

<sup>34</sup> Question No 51, “Declaration of wild animal as vermin”, Rajya Sabha, Parliament of India, 2 February 2023

<sup>35</sup> n1



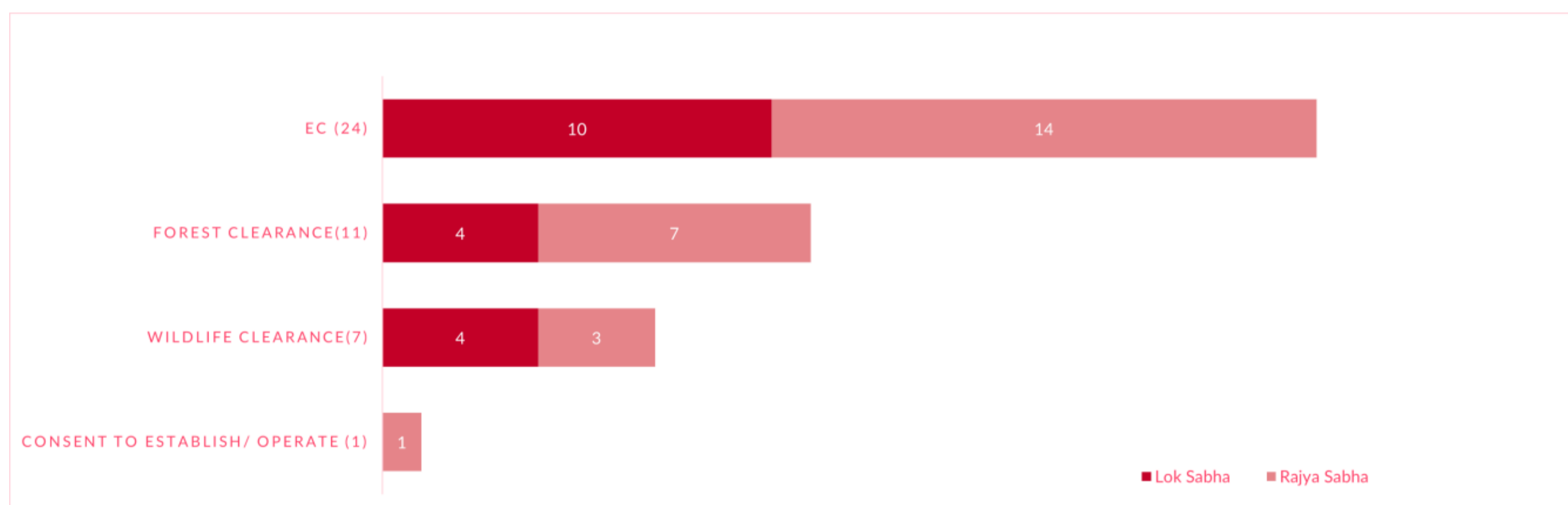
## VII. Environmental Permissions

Various kinds of consents, clearances, and permissions are required under different environmental laws for construction and operation of industries and other developmental projects. 37 of the responses by the MoEFCC were related to environmental permissions. Most of the responses were related to Environmental Clearances (“EC”) granted under Environmental Impact Assessment Notification, 2006.<sup>36</sup> Questions on EC ranged from specific projects like mining in Surjagad and Gadchiroli<sup>37</sup> to enquiries about the implication of clearances granted to developmental projects. For instance, in one response the MoEFCC informed that 87 major infrastructural projects have been granted EC in the last 3 years (2020-22), out of which 3 projects were highways passing through protected areas.<sup>38</sup>

In response to a question in RS, MoEFCC provided details of categories of non-forest purposes for which forest land was diverted in the last 4 years. It was informed that a total of 88,903 ha of forest land is diverted for non-forest purposes, wherein the highest diversion is for roads (19,424 ha), mining (18,847 ha), and irrigation (13,344 ha).

Questions related to wildlife clearance under the WPA with respect to Wildlife Sanctuaries, and zoos were also asked by the MPs. In response to a question in the RS, MoEFCC provided list of projects considered and recommended by the Standing Committee of the NBWL in the last 5 years. A total of 149 projects were recommended by the Standing Committee of the NBWL in 2021-22 with highest number of such projects in Ladakh (55).<sup>39</sup>

A detailed analysis and graphical representation of the responses on matters related to environmental permissions is provided in **Figure 10**.



**Figure 10. Number of responses related to environmental permissions.**

## VIII. Protected Landscapes

National Parks and Wildlife Sanctuaries comprised most of the 68 responses under this theme. National Parks were primarily mentioned in reference to the conservation of different species

<sup>36</sup> EIA Notification 2006, SI 2006/ 1533(E)

<sup>37</sup> Question No. 1806, “Mining in Surjagad and Gadchiroli”, Rajya Sabha, Parliament of India, 16 March 2023

<sup>38</sup> Question No. 39, “Environmental clearance to infrastructural projects”, Rajya Sabha, Parliament of India, 2 February 2023

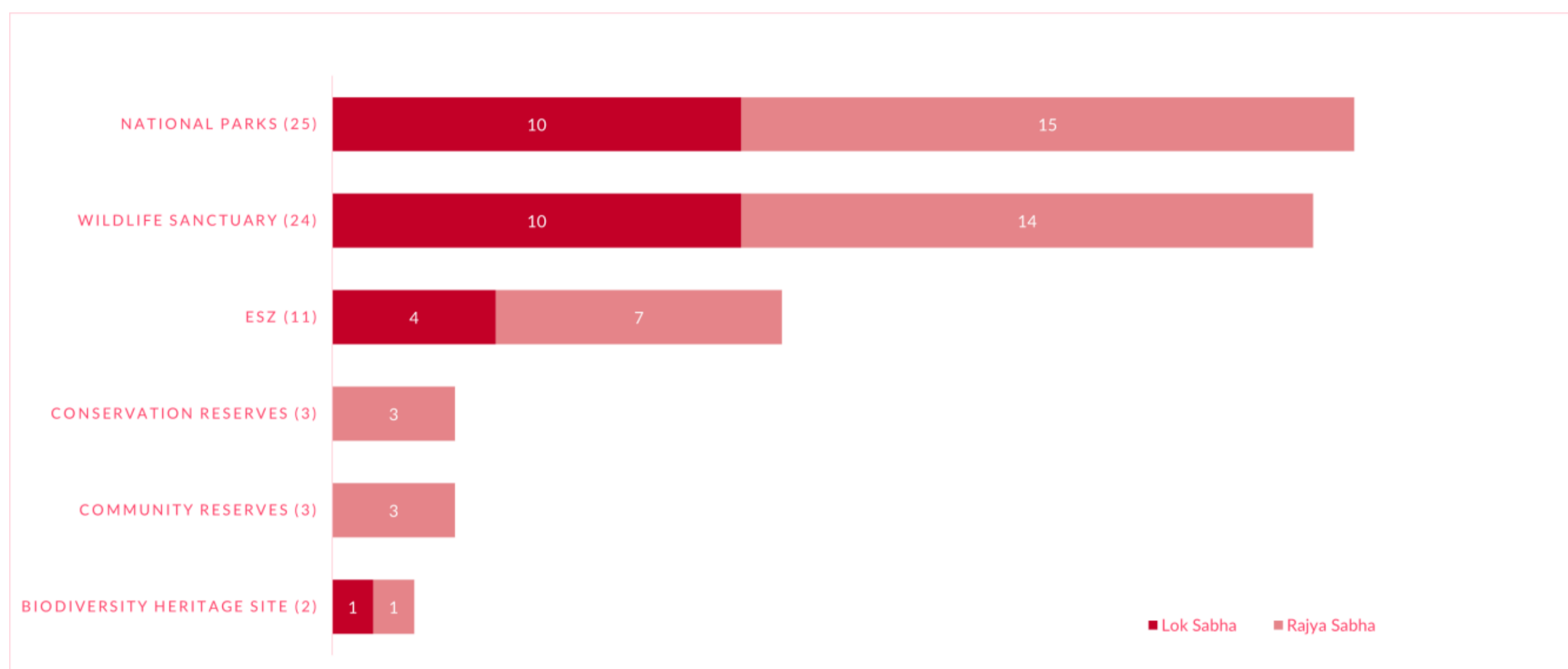
<sup>39</sup> Question No. 895, “Wildlife Clearance”, Rajya Sabha, Parliament of India, 9 February 2023



like Cheetah,<sup>40</sup> Great Indian Bustard<sup>41</sup> and others, and with respect to construction inside buffer zones.<sup>42</sup> In response to one question, the MoEFCC informed that it doesn't have data on constructions like hotels and other facilities in the buffer zones.<sup>43</sup>

Concerns around ESZs were also addressed in 11 of the responses. Queries were posed with reference to ESZ in the Himalayan region and protected areas.<sup>44</sup> Question on community and conservation reserve featured with reference to human-animal conflict within these landscapes.<sup>45</sup> There was a limited focus on the biodiversity/heritage site, with just one response by MoEFCC addressing the landscape under the Global Biodiversity Framework.<sup>46</sup>

A detailed analysis and graphical representation of the responses on matters related to protected landscapes is provided in the **Figure 11**.



**Figure 11.** Number of responses related to protected landscapes.

## IX. Landscapes of Special Importance

This theme covers areas that have received recognition for their ecological significance. Out of the total of 38 responses tracked under this theme, more than half were related to tiger reserves. Questions were frequently asked about the tiger population within the tiger reserves. MoEFCC responded to such queries by providing information on the tiger population as recorded in the Tiger Census every four years.<sup>47</sup> MPs also asked questions with respect to the relocation of tigers from tiger reserves to other States and countries.<sup>48</sup>

Questions featuring elephant reserves were primarily concerned with human-elephant conflicts within the reserve and the corridors around protected areas. In response to a question

<sup>40</sup> Question No. 1820, "Rehabilitation of Cheetahs in Rajasthan", Rajya Sabha, Parliament of India, 16 March 2023

<sup>41</sup> Question No. 4296, "Conservation Plan for Great Indian Bustards", Lok Sabha, Parliament of India, 27 March 2023

<sup>42</sup> Question No. 4333, "Hotels/Resorts in Buffer Zone" Lok Sabha, Parliament of India, 23 March 2023

<sup>43</sup> Question No. 4333, "Hotels/Resorts in Buffer Zone", Lok Sabha, Parliament of India, 27 March 2023

<sup>44</sup> Question No. 49, "Eco-Sensitive Zones", Rajya Sabha, Parliament of India, 2 February 2023

<sup>45</sup> Question No. 1823, "Human-Wildlife conflict in the country", Rajya Sabha, Parliament of India, 16 March 2023

<sup>46</sup> Question No. 3895, "Global Biodiversity Framework", Rajya Sabha, Parliament of India, 6 April 2023

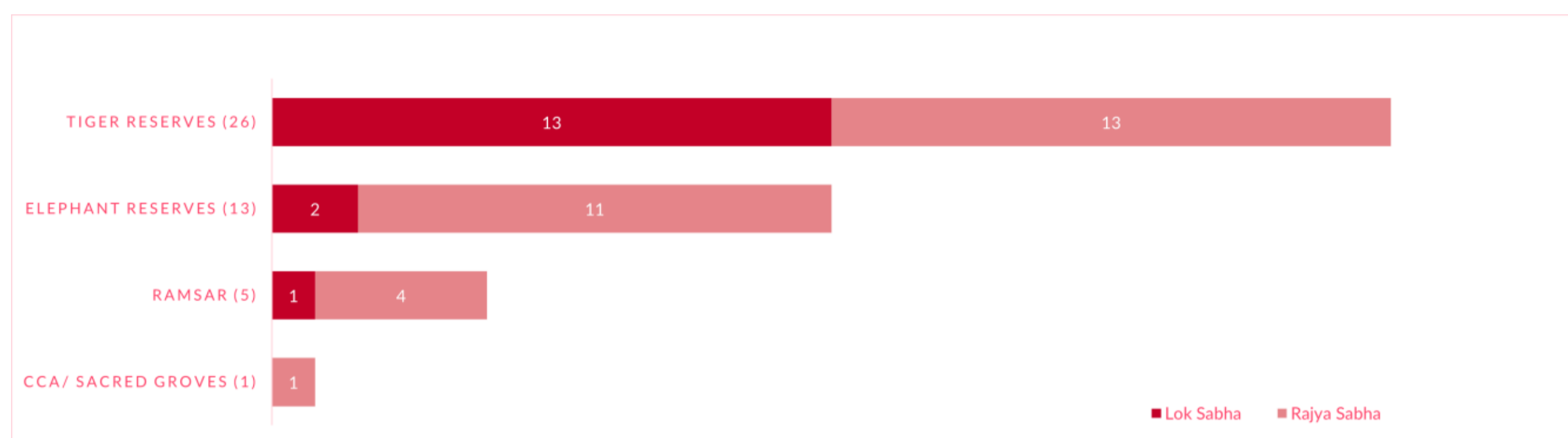
<sup>47</sup> Question No. 5110, "Tiger Population", Lok Sabha, Parliament of India, 3 April 2023

<sup>48</sup> Question No. 479, "Tiger Relocation", Lok Sabha, Parliament of India, 6 February 2023

about redrawing of elephant corridors, MoEFCC informed that it has initiated the process for ground truthing of elephant corridors in India, to create a better connectivity between different landscape and elephants' herds for maintaining genetic diversity.<sup>49</sup>

Ramsar sites found mention in responses dealing with protection programs for wetlands, mainly the National Plan for Conservation of Aquatic Ecosystems (“NPCA”).<sup>50</sup> MoEFCC informed in the LS that India has designated 75 Wetlands of International Importance as Ramsar sites covering an area of 1.33 million ha across the country, and under NPCA, MoEFCC has sanctioned proposals for conservation of 165 wetlands across the country, including 42 Ramsar sites and released an amount of about ₹1,088.85 Crores as central share<sup>51</sup> for aquatic Eco-systems.<sup>52</sup>

A detailed analysis and graphical representation of the responses on matters related to landscapes of special importance is provided in the **Figure 12**.



**Figure 12. Number of responses related to landscapes of special importance.**

## X. Developmental Activities

This theme covers issues related to developmental activities in areas that are regulated by the MoEFCC. There were 37 references to this theme in the responses. Infrastructural projects were the most addressed subject, with issues around impact and clearance of such projects forming most of the responses. MoEFCC informed that in the last three years (2020-22), about 23 lakh trees were proposed to be removed for the development of various infrastructural projects like highways, airports, thermal power plants etc.<sup>53</sup> Environmental impact of railways was also one of the common issues discussed, especially in the context of railway lines passing through protected areas and the death of wild animals due to railway accidents.<sup>54</sup>

<sup>49</sup> Question No. 1801, “Updation and review of elephant corridors”, Rajya Sabha, Parliament of India, 16 March 2023

<sup>50</sup> ‘National Plan for Conservation of Aquatic Ecosystems Guidelines’, MoEFCC, <<http://moef.gov.in/wp-content/uploads/2019/09/NPCA-MOEFCC-guidelines-April-2019-Low-resolution.pdf>> accessed 20 June 2023

<sup>51</sup> Question No. 5073, “Assessment of the Wetlands”, Lok Sabha, Parliament of India, 3 April 2023

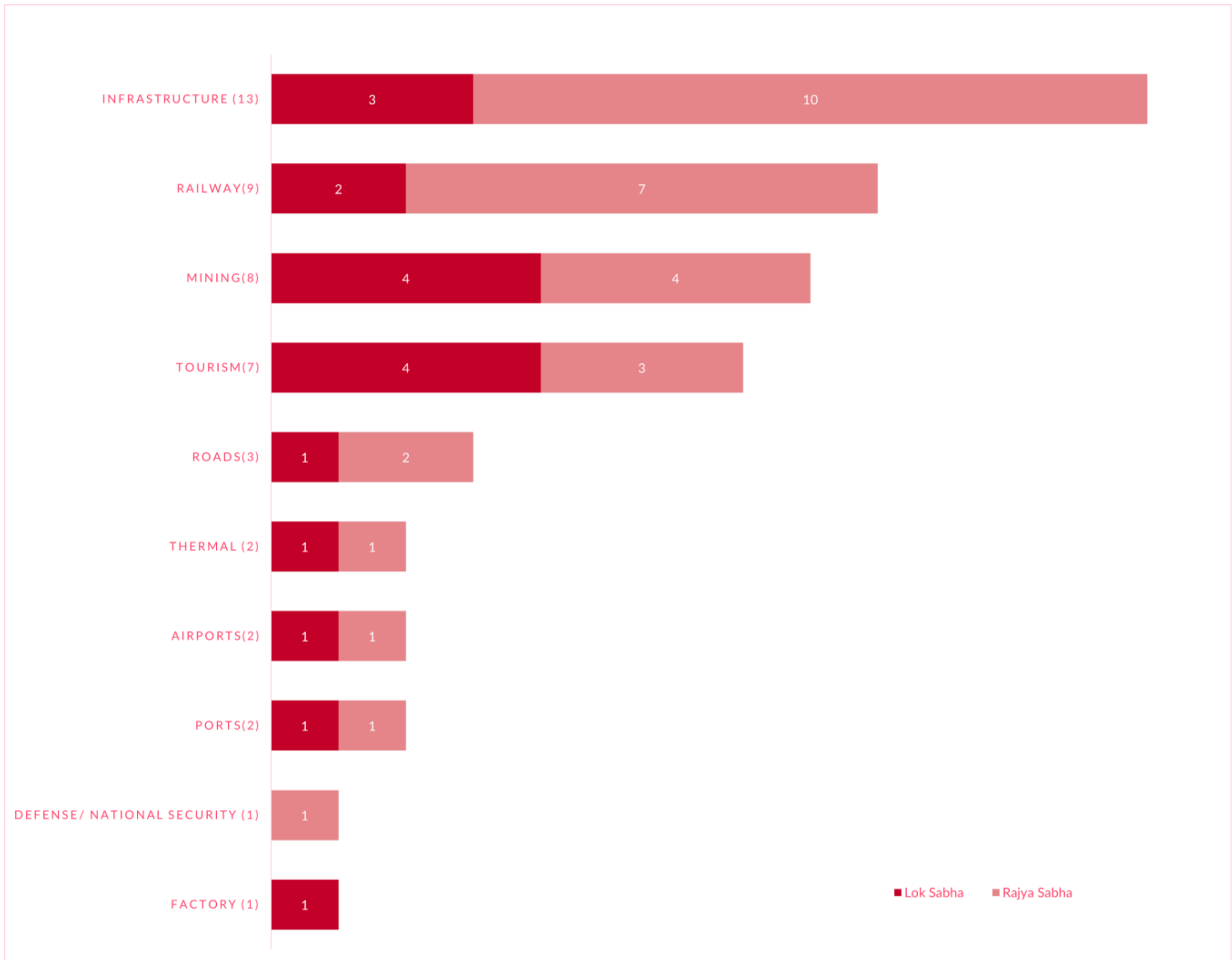
<sup>52</sup> ‘National Plan for Conservation of Aquatic Eco-Systems (NPCA) Scheme Implemented for Conservation and Management of Wetlands (Includes Lakes) in the Country on Cost Sharing Basis between Central Government and Respective State Governments’ <<https://pib.gov.in/pib.gov.in/Pressreleaseshare.aspx?PRID=1911129>> accessed 20 June 2023

<sup>53</sup> Question No. 39, “Environment clearances to infrastructure projects”, Rajya Sabha, Parliament of India, 2 February 2023

<sup>54</sup> Question No. 3169, “Death of Elephants”, Lok Sabha, Parliament of India, 20 March 2023; Question No, 3898, “Death of elephants in Odisha”, Rajya Sabha, Parliament of India, 6 April 2023

Questions on mining projects and related environmental hazards were answered regarding the EC required for such projects.<sup>55</sup>

A detailed analysis and graphical representation of the responses on matters related to development activities is provided in **Figure 13**.



**Figure 13.** Number of responses related to developmental activities.

<sup>55</sup> Question No. 1806, "Mining in Surjagad and Gadchiroli", Rajya Sabha, Parliament of India, 16 March 2023



## 3. IN FOCUS



Photo 1. Ms Nirmala Sitharaman, Hon'ble Minister of Finance presenting the Budget before the Lok Sabha.

### A. Budget of MoEFCC for 2023-24

The budget for the year 2023-24 was tabled in the Parliament on 1st February 2023 by the Hon'ble Finance Minister. The MoEFCC has been allotted ₹3,079.40 Crores, which is similar to the Budget Estimate (“B.E.”) for 2022-23 (₹3,030 Crores).<sup>56</sup> The MoEFCC informed the Department-Related Standing Committee on Science and Technology and Environment, Forest and Climate Change (“**Department-Related Standing Committee**”) that this was done considering the decline in the Revised Estimate (“R.E.”) for 2022-23, which was 19% lower than the B.E. for 2022-23, i.e., ₹2,478 Crores. The increase in allocation for MoEFCC is less than 1% *vis-a-vis* the previous year's B.E. The concerns around such minimal increase were underlined by the Department-Related Standing Committee, which is discussed in detail in Chapter 5.

Hon'ble Finance Minister, in her speech<sup>57</sup> termed ‘green growth’ as one of the seven priorities of this year's budget. In furtherance of this, the Minister highlighted the following projects under green growth:

- *Green Hydrogen Mission*: The objective to reach a production target of 5 MMT by 2030 with a budget outlay of ₹19,700 Crores.
- *Energy Transition*: Priority capital investments of ₹35,000 Crores towards energy transition and net zero objectives, and energy security by the Ministry of Petroleum & Natural Gas.

<sup>56</sup> Shashank Pandey, ‘Green Budget 2023-24 and the “Green” Shortcomings’ (Vidhi Centre for Legal Policy, 31 March 2023) <<https://vidhilegalpolicy.in/blog/green-budget-2023-24-and-the-green-shortcomings/>> accessed 5 July 2023

<sup>57</sup> Speech, Indian Budget 2023-24 <[https://www.indiabudget.gov.in/doc/Budget\\_Speech.pdf](https://www.indiabudget.gov.in/doc/Budget_Speech.pdf)> accessed 16 May 2023



- *Energy Storage Projects*: Battery Energy Storage Systems with a capacity of 4,000 MWH to be supported with viability gap funding.
- *Renewable Energy Evacuation*: Creation of the Inter-State transmission system for evacuation and grid integration of 13 GW renewable energy from Ladakh with a budget outlay of ₹8,300 Crores.
- *Green Credit Programme*: To encourage behavioural change, a Green Credit Programme to be notified under the Environment (Protection) Act, 1986 (“EPA”).
- *Galvanizing Organic Bio-Agro Resources Dhan (“GOBARdhan”)*: 500 new ‘waste to wealth’ plants under GOBARdhan scheme to be established to promote a circular economy.
- *Mangrove Initiative for Shoreline Habitats & Tangible Incomes (“MISHTI”)*: MISHTI will be taken up for mangrove plantation along the coastline and on salt pan lands.
- *Amrit Dharohar*: A scheme that will be implemented over the next three years to encourage optimal use of wetlands and enhance biodiversity, carbon stock, eco-tourism opportunities and income generation for local communities.
- *Vehicle Replacement*: Under the scheme old polluting vehicles will be replaced.

These initiatives are supposed to be executed by different ministries and not just MoEFCC. Thus, we don’t see a substantial increase in budgetary allocation for MoEFCC. The expenditure profile of the MoEFCC is broadly categorized into four categories:

- I. Expenditure on Establishments under MoEFCC
- II. Expenditure on Central Sector Schemes (“CS”)/Projects
- III. Other Central Sector Expenditure
- IV. Expenditure on Centrally Sponsored Schemes (“CSS”)

A detailed account of budget allocation to the MoEFCC under respective categories is provided below.

## **I. Expenditure on Establishments under MoEFCC**

The allocation of funds under this head is supposed to meet the expenditure of the human resources employed in establishments like the MoEFCC Secretariat, other subordinate or attached offices like the National Afforestation and Eco-Development Board, FSI, WCCB, Botanical Survey of India (“BSI”), NGT, National Zoological Park etc. The total budgetary allocation for establishments is ₹903 Crores, with the highest allocation for the BSI (₹136 Crores) and Zoological Survey of India (₹104 Crores).

Four CSS, namely National Adaptation Fund, National Mission on Himalayan Studies, Hazardous Substances Management, and Climate Change Action Plan, are transferred to non-scheme and kept under the Secretariat, having a total allocation of ₹355 Crores.

## **II. Expenditure on Central Sector Schemes/ Projects**

A total expenditure outlay of ₹949 Crores is allocated under this head. Allocation is made for the following projects: i) *Environmental Knowledge and Capacity Building* (₹ 93 Crores); ii) *National Coastal Management Programme* (₹ 12.50 Crores), iii) *Environment Protection, Management and Sustainable Development* (no allocation to this head as schemes under it are moved to the Secretariat); iv) *Decision Support System for Environmental Awareness, Policy, Planning and Outcome Evaluation*. The last head is also not allotted any funds because it is restructured as *Environment Education, Awareness, Research and Skill Development* with ₹87 Crores allocation. This

scheme creates awareness and imparts environmental education through exhibitions and training programmes. It also includes the allocation for R&D for conservation and development.

### **III. Other Central Sector Expenditure**

There is also an allocation of ₹468 Crores for other central sector expenditure, which includes statutory and regulatory bodies like CPCB, NTCA, CZA, and NBA, and autonomous bodies like ICFRE, Indian Institute of Forest Management etc.

### **IV. Expenditure on Centrally Sponsored Schemes**

The CSS are carried out by the transfer of funds to States for implementation. Broadly the CSS are categorised as ‘Schemes for Environment, Forestry and Wildlife’. The major schemes under CSS are:

#### **i) National Mission for a Green India**

The total allocation for the scheme is ₹220 Crores. Under the scheme, to increase the forest cover and to protect the existing forest land, the MoEFCC implements two schemes, namely, Green India Mission-National Afforestation Programme (“GIM-NAP”) and Forest Fire Prevention Management. The funds for GIM-NAP are met from Sovereign Green Fund whereas the latter has allocation under the budget.

#### **ii) Integrated Development of Wildlife Habitats**

It includes Project Tiger, Project Elephant, and other schemes for wildlife conservation. A total allocation of ₹492 Crores is provided in it. Project Tiger and Project Elephants will now have a joint allocation of ₹ 332 Crores this year. The Department Related Standing Committee made a detailed observations of this change in this year’s budget allocation (See Chapter 5).

#### **iii) Conservation of Natural Resources and Ecosystems**

It includes Biodiversity Conservation, Conservation of Aquatic Ecosystems and Conservation of Aquatic Ecosystems (Externally-Aided-Projects Component).<sup>58</sup> A total allocation of ₹47 Crores is provided under this.

During the Budget-Session, Demands-For-Grants (“DFG”) of only a few ministries are selected for detailed discussion in both houses of the Parliament because of paucity of time. The DFG of MoEFCC wasn’t selected for detailed discussion. Hence, there was no discussion in the Parliament on allocation towards MoEFCC.

The DFG for ministries and departments were put to vote on 23rd March 2023 in the LS and passed, and the corresponding Appropriation Bill, 2023<sup>59</sup> was also passed on the same day. The Finance Bill, 2023 containing specific provisions for the implementation of the DFG was passed

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<sup>58</sup> Guidelines for Posing, Implementation and Monitoring of Externally Aided Projects, Ministry of Finance Department of Economic Affairs, No. 8/1/2019-BPC&T, 25 November 2019

<sup>59</sup> Appropriation Bill 2023, Lok Sabha, Bill No. 64 of 2023: Appropriation Bill gives power to the government to withdraw funds from the Consolidated Fund of India for meeting the expenditure during the financial year.



by LS on 24th March. RS, after discussing the allocation for different ministries returned<sup>60</sup> the DFG related Appropriation Bill, 2023 and Finance Bill, 2023 on 27th March 2023 to the LS.<sup>61</sup>

## **B. Introduction of the Forest (Conservation) Amendment Bill, 2023**

The MoEFCC introduced the Forest (Conservation) Amendment Bill, 2023 (“FCA Bill”) in the LS on 29th March 2023, proposing amendments to the Forest (Conservation) Act, 1980 (“FCA”). The FCA Bill has been referred to the Joint Committee on Forest (Conservation) Amendment Bill, 2023 of the Parliament (“JC-FCA Bill”) for examination, which is expected to give its report in July 2023. The JC-FCA Bill invited views/ suggestions on the proposed amendment from 3rd May 2023 for 15 days.<sup>62</sup>

Vidhi Centre for Legal Policy (“Vidhi”) constituted an independent High-Level Working Group (“HLWG”) for a comprehensive analysis and submission to the JC-FCA Bill. The HLWG consisted of reputed environmental professionals, including retired bureaucrats from Indian Administrative Services/ Indian Forest Services, experts on the forest, wildlife conservationists, scientists, social activists, and lawyers. The report containing the detailed submission can be accessed on Vidhi’s website.<sup>63</sup>

The changes proposed to be brought in the FCA through the FCA Bill are discussed in the following section.

### **I. The Preamble**

The FCA Bill proposes to insert a Preamble to the FCA. It refers, *inter alia*, to the enhancement of forest carbon stocks, creation of carbon sinks to achieve NDC targets and the improvement of livelihoods of forest-dependent communities. However, the proposed amendments to the FCA provisions appear inconsistent with this Preamble. The proposed amendments exempt a large tract of natural old-growth forests from the applicability of the FCA and attempt to compensate the same with plantations, ignoring the ecological benefits of natural forests and their capability in better carbon sequestration. The exemptions under the FCA Bill also adversely affect the wildlife and rights of forest-dependent people.

### **II. Insertion of New Section 1A**

The FCA Bill proposes to insert Section 1A to the Act to specify the lands covered under FCA’s provisions. In Godavarman judgment,<sup>64</sup> the SC interpreted the FCA to apply not only to ‘notified forests’ but also to any areas that are ‘recorded’ as forests in any government record. This interpretation expanded the scope of the forest clearance (permission from Central Government for non-forest activities) required under Section 2 of the FCA. The FCA Bill

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<sup>60</sup> Appropriation Bill and Finance Bill are Money Bill. Hence Rajya Sabha has no power to pass them but can only return it to the Lok Sabha.

<sup>61</sup> ‘Budget Session of Parliament Adjourned Sine Die Today,’ PIB, <<https://pib.gov.in/pib.gov.in/Pressreleaseshare.aspx?PRID=1914356>> accessed 26 June 2023

<sup>62</sup> Press Communique, ‘Joint Committee on the Forest (Conservation) Amendment Bill, 2023 invites suggestions on ‘examination of the Forest (Conservation) Amendment Bill, 2023’, Lok Sabha Secretariat, Parliament of India, 3 May 2023, <[https://drive.google.com/file/d/1hF5dkAdheGHGWUTASB2aeWTBYG14WAA0/view?usp=drive\\_link](https://drive.google.com/file/d/1hF5dkAdheGHGWUTASB2aeWTBYG14WAA0/view?usp=drive_link)> accessed 5 May 2023

<sup>63</sup> ‘Report of the High-Level Working Group on the Forest (Conservation) Amendment Bill 2023’ (Vidhi Centre for Legal Policy) <<https://vidhilegalpolicy.in/research/report-of-the-high-level-working-group-on-the-forest-conservation-amendment-bill-2023/>> accessed 26 June 2023

<sup>64</sup> n23

specifically focuses on these 'recorded' forests and suggests that only lands recorded as forests as on or after October 25th, 1980, should fall within the purview of the FCA, thus raising concerns that it may narrow down the impact of the Godavarman judgement.

Such interpretation will also jeopardise the "unclassed forests". In India a vast tract of land is categorised as "unclassed forest" which is a land that is not a part of reserved forest or protected forest notified under a statute. As per the latest FSI's 'India State of Forest Report' (2021), out of the total forest area of 7,75,288 sq.km. in India, 1,20,753 sq.km. is categorised as unclassed forests. Thus, unclassed forests account for approximately 15% of India's total forest cover, and in some States and UTs, unclassed forests constitute a major portion of their total forest cover. For instance, in Northeast India, 97.2% of Nagaland's, 88.2% of Meghalaya's, 75.6% of Manipur's, 53% of Arunachal Pradesh's and 33.4% of Assam's total forest area is categorised as unclassed forest.<sup>65</sup>

The HLWG also expressed concerns over distinct types of important ecosystems that are protected and managed as forests even though they are not notified or recognized as forests. For instance, in Karnataka's Kodagu district, out of a total district area of 4,097 sq. km., only 1,439 sq. km. is notified as forests. Remaining equally good forest patches in the district are classified as *bane* (867 sq. km.), *paisari* (772 sq. km.), *devarkadu* (30 sq. km.), *urudve* (35 sq. km.), *uruguppe* (4 sq. km.) etc.<sup>66</sup>

Additionally, the FCA Bill proposes to legalise the transfer of forest land to non-forest use by State Governments before December 12th, 1996, i.e., the date of Godavarman judgment. As per HLWG, this provision will legalise unlawful diversion of forest lands for non-forest purposes in the violation of FCA.

Sub-clause 2 of proposed Section 1A provides for categories of lands that will not be covered under the provisions of the FCA, and hence would not require prior permission as mandated under the Act. It includes the following:

- forest land up to a size of 0.10 ha situated alongside a rail line, or a public road maintained by the government, which provides access to a habitation, or to a rail, and roadside amenity;
- forest land having trees, tree plantation or reforestation which are not recorded as forest under newly inserted sub-section 1 of Section 1A (as discussed above);
- forest land situated within 100 km along international borders or Line of Control or Line of Actual Control that are proposed to be used for construction of strategic linear project of national importance and concerning national security;
- forest land up to 10 ha, proposed to be used for construction of security related infrastructure;
- forest land proposed to be used for construction of defence- related projects or camps for paramilitary forces or public utility projects, as may be specified by the Central Government, the extent of which does not exceed 5 ha in a Left-Wing Extremism affected area.

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<sup>65</sup> Forest Survey of India, India State of Forest Report 2021, <<https://fsi.nic.in/forest-report-2021-details>>

<sup>66</sup> n 63



This provision of the FCA Bill relies upon very ambiguous terminologies like ‘public utility’, ‘roadside amenities’, ‘security-related’ and others. Experts have raised concerns over broad possible interpretations of these terms.

For instance, National Highway Authority of India’s ‘Policy Guidelines for the Development of Wayside Amenities along National Highways and Expressways’ provides insight into meaning of roadside amenities. It can include, food court/ restaurants, area for landscaping and cultural structures.<sup>67</sup> Similarly, public utility can be understood as those services that the government thinks essential for people. This can include communication, power, postal services, roads, sanitations, and others.<sup>68</sup>

Reafforestation is not defined under the FCA, or rules framed thereunder. Additionally, afforestation and reforestation have different meanings. Usually, afforestation means planting trees on non-forest land, while reforestation involves planting trees on a land which was previously a forest. Thus, reforestation is done on lands already notified or recorded as forest.

The HLWG underlined the concern with providing complete exemption to projects related to security or defence because forest clearance is already being granted to security projects under ‘General Approval’. Under the ‘General Approval’ the regulatory procedures and compliances under FCA are usually relaxed and limited. Under the FCA, Sub-section 3 of Section 1A provides that these exemptions under sub section 2 will be subject to the guidelines and conditions the Central Government sets. The Central Government has granted ‘General Approvals’ through periodic notifications for diverting specific forest land in certain cases, primarily for public utility services and critical/strategic defence infrastructure projects in the past.<sup>69</sup>

### **III. Amendment to Section 2**

The FCA imposes restrictions on the conversion of forest land for non-forest purposes or the de-reservation of forests. It specifies certain activities that are exempt from these restrictions, such as those related to the conservation, management, and development of forests and wildlife. These activities may include establishing check posts, fire lines, fencing, and wireless communication. The FCA Bill through an amendment to Section 2 expands this list to include activities like zoos and safaris, eco-tourism facilities, silvicultural operations, and ‘any other purposes’ specified by the Central Government.

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<sup>67</sup> Circular, Ministry of Road Transport and Highways of India, 1478967/2021/RO Patna, 11 February 2021, Policy Guidelines for Development of Wayside Amenities along National Highways and Expressways, <[https://morth.nic.in/sites/default/files/circulars\\_document/Policy%20Guidelines%20for%20Development%20of%20Wayside%20Amenities%20along%20NHs%20and%20Expressways%20%281%29.pdf](https://morth.nic.in/sites/default/files/circulars_document/Policy%20Guidelines%20for%20Development%20of%20Wayside%20Amenities%20along%20NHs%20and%20Expressways%20%281%29.pdf)> accessed 20 June 2023

<sup>68</sup> The Legal Services Authorities Act 1987, s. 22A (b)

<sup>69</sup> MoEFCC, F. No. 11-246/2014-FC, 4 November, 2017, ‘General approval under Section-2 of the Forest (Conservation) Act, 1980 for diversion of forest land’, [https://forestclearance.nic.in/writereaddata/public\\_display/schemes/677288723\\$11%20246%202014.pdf](https://forestclearance.nic.in/writereaddata/public_display/schemes/677288723$11%20246%202014.pdf), accessed 11 May 2023; MoEFCC, F. No. 11-246 2014-FC, 29 January, 2015 ‘General approval under Section-2 of the Forest (Conservation) Act, 1980 for diversion of forest land’, <[https://forestclearance.nic.in/writereaddata/public\\_display/schemes/371830551\\$11%20246%202014%20ii.pdf](https://forestclearance.nic.in/writereaddata/public_display/schemes/371830551$11%20246%202014%20ii.pdf)> accessed 11 May 2023; MoEFCC, No. 11-246 2014-FC, 28 August, 2017 ‘Clarification regarding inclusion of Army infrastructure’, <[https://forestclearance.nic.in/writereaddata/public\\_display/schemes/964208709\\$11%20246%202014.pdf](https://forestclearance.nic.in/writereaddata/public_display/schemes/964208709$11%20246%202014.pdf)> accessed 11 May 2023

The HLWG highlighted that ecotourism activities are known for obstructing wildlife movement,<sup>70</sup> accelerate forest loss<sup>71</sup> and lead to fragmentation of landscapes. It also highlighted the observation in the National Wildlife Action Plan 2017-31 (“**NWAP**”) which mentions that in recent years mushrooming of tourism facilities has led to overuse, disturbance and serious management problems in several protected areas.<sup>72</sup>

Commenting upon the exemption to zoos and safaris, the HLWG observed that zoos and safaris are ex-situ conservation tools, and they must not come at the cost of natural habitats of wildlife. The cumulative impact of such establishments, including buildings, access to roads, power transmission lines, vehicular movement, light, and noise pollution etc. has a significant consequence on an otherwise intact forest and species conservation.<sup>73</sup>

Furthermore, the Central Government would now have the authority to exclude certain survey activities, like exploration or seismic surveys, from being classified as non-forest purposes by specifying terms and conditions. The HLWG pointed out that such surveying activities involve heavy equipment usage in the forest area and will deliver a message that the forest areas are open for commercial exploitation in future, which is against the National Forest Policy 1988.<sup>74</sup>

According to the FCA, the State Government or any authorised authority must obtain prior approval from the Central Government to lease or assign forest land to any organisation not owned by the government, such as private individuals, agencies, authorities, or corporations.<sup>75</sup> The FCA Bill allows such leasing or assignment to be done to any organisation, subject to the terms and conditions prescribed by the Central Government. The HLWG expressed that such leasing should be for conservation on forest and wildlife only.<sup>76</sup>

## **IV. Potential Impact on Rights of Scheduled Tribes and Other Forest Dwelling Communities**

The FCA Bill proposes to exempt the requirement of forest clearance on certain forest lands and for several activities. It may also remove the requirement of any regulatory oversight for the diversion of forests recorded before 25th October 1980.

An essential part of the diversion of forest land under the FCA includes compliance with The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (“**FRA**”) by seeking the consent of the Gram Sabha. The FRA does not provide any exemption to any category of projects. The centrality of the Gram Sabha’s role has also been reaffirmed by the SC in *Orissa Mining Corporation v. Ministry of Environment and Forests and Others*<sup>77</sup> where it was held that the decision of affected Gram Sabhas is necessary before the diversion of forest land for non-forest purposes or for any development project, big or small.

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<sup>70</sup> Perna Bindra, ‘Report on impact of tourism on tigers and other wildlife in Corbett Tiger Reserve’, Ministry of Tourism, <[http://www.indiaenvironmentportal.org.in/files/corbett\\_tourism\\_report.pdf](http://www.indiaenvironmentportal.org.in/files/corbett_tourism_report.pdf)> accessed 13 June 2023

<sup>71</sup> Brandt JS and others, ‘Effects of Ecotourism on Forest Loss in the Himalayan Biodiversity Hotspot Based on Counterfactual Analyses’ (2019) 33 *Conservation Biology* 1318

<sup>72</sup> Wildlife Institute of India, ‘National Wildlife Action Plan 2017-31’, <[https://wii.gov.in/nwap\\_2017\\_31](https://wii.gov.in/nwap_2017_31)> accessed 16 June 2023

<sup>73</sup> Report of the High-Level Working Group (n 63)

<sup>74</sup> ‘Aim and objectives under Forest Policy, 1988’, PIB, <<https://pib.gov.in/newsite/erecontent.aspx?relid=57051>> accessed on 20 June 2023

<sup>75</sup> S2(iii) Forest (Conservation) Act, 1980

<sup>76</sup> n63

<sup>77</sup> *Orissa Mining Corpn. Ltd. v. Ministry of Environment & Forests*, [2013] 6 SCC 476



The HLWG observed that these amendments diverge from the protective approach of the FCA and infringe upon constitutionally guaranteed rights, such as the right to a clean environment, access to information, participation in decision-making, and access to justice. Exemptions from forest clearance for activities proposed in the amendments directly affect these rights. Forest-dependent communities rely on forests for livelihoods, cultural practices, and overall well-being.

## **C. Changes to Biological Diversity (Amendment) Bill, 2021**

The Joint Committee on The Biological Diversity (Amendment) Bill, 2021 (“**JC-BDA Bill**”), submitted its report<sup>78</sup> to the Parliament in August 2022. The MoEFCC, while accepting most of the amendments recommended by the JC-BDA Bill, moved a revised version of the Biological Diversity (Amendment) Bill, 2022 (“**BDA Bill**”) in February 2023. Vidhi submitted detailed comments before the JC-BDA Bill.<sup>79</sup> The amended version of the BDA Bill had following changes:

### **I. Definition of Codified Traditional Knowledge**

The term ‘codified traditional knowledge’ was not defined either under the Biological Diversity Act (“**BDA**”) or the BDA Bill.<sup>80</sup> However, the BDA Bill provided certain exemptions with respect to ‘codified traditional knowledge only for Indians’, such as exclusion from the definition of ‘benefit claimers’ under Section 2(aa). The JC-BDA Bill recommended the insertion of Section 2 (ea) to define ‘codified traditional knowledge’ as the knowledge derived from authoritative books specified in the First Schedule of the Drugs and Cosmetics Act, 1940. Accordingly, the MoEFCC has accepted the insertion of this definition.

### **II. Foreign Controlled Company**

Under Section 3(2)(c)(ii) of the BDA, a body corporate, association, or organisation incorporated or registered in India having non-Indian participation in share capital or management is required to take the approval of the NBA to obtain any biological resource occurring in India or knowledge associated thereto.

The BDA Bill replaced these entities with body corporates or associations or organisations which are incorporated or registered in India but is a ‘foreign-controlled company’. It further added that ‘foreign controlled company’ means a ‘foreign company’ within the meaning of the clause Section 2(42) Companies Act, 2013 which is under the control of a foreigner. As per the said definition “foreign company” means any company or body corporate incorporated outside India which (a) has a place of business in India whether by itself or through an agent, physically or through electronic mode; and (b) conducts any business activity in India in any other manner.

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<sup>78</sup> ‘Report of the Joint Committee on the Biological Diversity (Amendment) Bill, 2021’ Lok Sabha, <[https://eparlib.nic.in/bitstream/123456789/931978/1/17\\_Joint\\_Committee\\_on\\_the\\_Biological\\_Diversity\\_Amendment\\_Bill\\_2021\\_1.pdf](https://eparlib.nic.in/bitstream/123456789/931978/1/17_Joint_Committee_on_the_Biological_Diversity_Amendment_Bill_2021_1.pdf)> accessed 26 May 2023

<sup>79</sup> Debadityo Sinha, Mridhu Tandon, Utkarsh Jain, ‘Comments to the Joint Committee of Parliament on The Biological Diversity (Amendment) Bill, 2021’ (Vidhi Centre for Legal Policy) <<https://vidhilegalpolicy.in/research/comments-to-the-joint-committee-on-parliament-on-the-biological-diversity-amendment-bill-2021/>> accessed 5 July 2023

<sup>80</sup> Ibid

This created ambiguity and confusion about how a company which is incorporated or registered in India, also be incorporated outside India to qualify as a foreign company, and therefore as foreign controlled. The present legislation requires even Indian companies with involvement of a foreigner in management (even without share capital or incorporated outside India) to take approval of NBA. This issue was also discussed in detail in the Vidhi's submission to the JC-BDA Bill.<sup>81</sup>

The JC-BDA Bill suggested to replace the proposed amendment with entities incorporated or registered in India, which is controlled by any 'foreigner' within the meaning of Section 2(27) of the Companies Act, 2013. This suggestion has been accepted by the MoEFCC and incorporated in the amended version of the BDA Bill.

### **III. Certificate of Origin**

For amendments proposed under Section 7, the JC-BDA Bill suggested that the certificate of origin for cultivated medicinal plants shall be obtained by making an entry in the books of the concerned Panchayat Body or Biodiversity Management Committee. Accepting the suggestion, the MoEFCC has now proposed to allocate the task of issuing such certificates in the prescribed manner to the Biodiversity Management Committee.

The JC-BDA Bill also recommended consultation with the concerned State Government and Union Territories for the development of strategies, plans etc. by the Central Government for conservation, promotion, and sustainable use of biodiversity. This recommendation has been accepted.

There were other concerns with the proposed amendment, such as the removal of the term 'bio-utilization', regarding exemption to Ayush practitioners, and certain exemptions to biological resources under Section 40. These concerns were also raised in the Vidhi's submission to the JC-BDA Bill.<sup>82</sup> The committee report, however, did not address any of these proposed amendments under the BDA Bill.

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<sup>81</sup> Ibid

<sup>82</sup> Ibid



# 4. OTHER INTERVENTIONS IN THE PARLIAMENT

## A. Interventions in the RS

In the RS, 13 Special Mentions (“SM”)<sup>83</sup> were taken up, wherein 2 were filed with the MoEFCC.

First SM was related to the need for mass awareness on water conservation and legislation for efficient use of water by industries. This SM was taken up by Shri Naresh Bansal (BJP, Uttarakhand). He suggested adopting practical ways to raise awareness for water conservation and the need for transparent laws to stop indiscriminate usage of water in the name of industrial development.

The other SM was related to the need for addressing human-animal conflicts in Kerala, taken up by Shri Sandosh Kumar P. (CPI, Kerala), highlighting the increasing number of such cases. He iterated that as per information provided by Kerala Forest Department, there were 144 cases of compensation filed in the year 2021-22 for animal attack. With reference to the restrictions under the WPA for human beings to defend themselves against such attacks, he suggested that there is an urgent need to implement the most pragmatic policy that can effectively address the sentiments of the people in the affected districts.



Photo 2. Dr Fauzia Khan NCP (Maharashtra), raising issue of concern over poor air quality in the cities of Mumbai and Pune during Zero-Hour in the Rajya Sabha.

<sup>83</sup> Special Mention, Chapter XIV, Rules of Procedure and Conduct of Business in the Council of States (Rajya Sabha 9th Edn) accessed 15 June 2023: Special Mention is an instrument used to mention matters of public importance.



Out of 29 Zero Hour notices<sup>84</sup> in the RS, 2 were used by the MPs to raise environmental concerns in their region.

Dr. Fauzia Khan (NCP, Maharashtra), raised concern over poor air quality in the cities of Mumbai and Pune, and the need for robust health infrastructure to address the problem.

Shri Jose K. Mani (Kerala Congress (M), Kerala) raised concern over the severe crisis faced by the fishermen community stating before the house that erratic weather conditions, cyclonic storms, coastal erosion, excess tourism, and developmental projects have led to large-scale displacement of the fishing community. He highlighted the need for laws to protect the rights of the fisherman community with respect to marine resources on the lines of the FRA.

## **B. Interventions in the LS**

The MPs put forth 436 issues through Rule 377 notices<sup>85</sup> in the LS. 61 of these dealt with environment-related issues.

Compensation to farmers for crop failure due to climatic reasons found place in 7 of the issues, while construction of canals/ dams was addressed 11 times. Air quality in Delhi/National Capital Region and other parts of the country was also raised by MPs across party lines and 5 notices were related to it. EC and dispute around it were also frequently raised by MPs, and 4 notices were addressed on this subject.

Other notices raised by MPs were subject and constituency specific. Shri Kodikunnil Suresh (INC, Kerala) raised a matter regarding environmental protection and the development of tourism in Munroe Thuruth Island, located in Kollam district. He underlined numerous factors like ground subsidence, upward seepage of saline water during high tide events and others that are now affecting the existence of Munroe Thuruth Island. He requested immediate steps in promulgating an environmental protection and livelihood preservation master plan for revitalizing Munroe Thuruth Island.

Out of 133 Zero Hour notices, only 8 were related to environmental matters or directed to the MoEFCC. The matters raised under this were mostly constituency-specific subjects that affected the local population or ecology.

Shri Anto Antony (INC, Kerala) requested to exclude Angel valley and Pampa valley of Erumely Gram Panchayat, Kottayam district, from the Periyar Tiger Reserve. The MP informed that before India's Independence, the government of Thirukochi gave approval for using the land for cultivation under the 'Grow More Food' scheme to overcome the food shortage in 1945. Therefore, people started cultivation and settlement in these places that took place well before WPA came into force in 1972. Most of the people living in the region are farmers who started living there more than 70 years ago. He iterated that they are under threat of evacuation because of the declaration of forest land in the region. Thus, such exclusion is imperative. Similarly, Shri Bhartruhari Mahtab (BJD, Odisha) raised an issue of Chattisgarh unilaterally

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<sup>84</sup> FAQ, Lok Sabha, Parliament of India, <<https://mpa.gov.in/sites/default/files/parlia13.pdf>> accessed on 18 June 2023: The term 'Zero Hour' is not formally recognised in our parliamentary procedure. Zero Hour in Lok Sabha is the 2nd hour immediately following the question hour, wherein the members raise questions of urgent public importance with the permission of the Speaker.

<sup>85</sup> Rule 377: Raising a matter which is not a point of order, Rules of Procedure and Conduct of Business in Lok Sabha (16th Edn) <<https://loksabha.nic.in/rules/rules.pdf>> accessed on 18 June 2023: Rule 377 stipulates that a member who wishes to bring to the notice of the House a matter which is not a point of order shall give notice in writing to the Secretary-General, specifying clearly and precisely the text of the matter to be raised. The member may be permitted to raise it only after the Speaker has given the consent and at such time and date as the Speaker may fix.

planning illegal obstruction of 24.50 million acre feet of Mahanadi River water. He inquired whether the State of Chhattisgarh, during its project planning has considered the MoEFCC guidelines for minimum environment flow. He claimed that the flow of water from Mahanadi to Odisha stopped entirely before mid of February 2023 and still there are 4 more months of summer. He requested the intervention of the Central Government for immediate resolution of the dispute.



# 5. COMMITTEE REPORTS

## A. Department-Related Standing Committee on Science and Technology and Environment, Forest and Climate Change on Demand-For-Grants 2023-24

The Department-Related Standing Committee in its 378th report (“The Report”), considered the DFG pertaining to the MoEFCC for the year 2023-24.<sup>86</sup> The Report also considered the B.E. and R.E. for 2022-23 and B.E. for 2023-24.

On the overall budgetary reductions, the Department-Related Standing Committee observed an almost 19% reduction in the R.E. from the B.E. for 2022-23. There is also an approximately 30% reduction in the budget allocation proposed by the MoEFCC and the final allocation made. The allocation for schemes run by MoEFCC has seen a significant reduction of about ₹1100 Crores.

The Department-related Standing Committee also observed a drastic reduction under NCM from ₹195 Crores in B.E to ₹4 Crores in the last year’s R.E. and reduced to ₹12.5 Crores in this year B.E. Allocation of ₹723.60 Crores was initially sought for the National Coastal Management Programme. MoEFCC explained that it was made under the assumption of approval of EAP-ENCORE – a project sponsored by the World Bank, which the World Bank later withdrew.<sup>87</sup> The Department-Related Standing Committee orally remarked that the country's coastline, the dependent population, and the fragile coastal ecosystem are likely to be negatively affected by unpreparedness. The committee, thus, strongly recommended the MoEFCC to initiate a strategy to address the deficit funds for continuation of the program.

The Department-Related Standing Committee observed an increasing trend in budget allocation towards control of pollution (26%), BSI (640%), and Secretariat (108%) from last year. For the increase under the head of the Secretariat, the MoEFFCC attributed it to the shifting umbrella CS of “Environmental protection, Management and Sustainable Development” like Hazardous Substances Management, Climate Change Action Plan, National Adaptation Fund and National Mission on Himalayan Studies, to the non-scheme element.

The Ministry of Finance set a target of 75% expenditure for the 3rd quarter. The committee observed that the actual utilisation by the MoEFCC in 2022-23 amounts to about 69% only, which it considered satisfactory. However, utilization is only 54% of the total allocation across CS and CSS. The fund utilisation was only 27% of total allocation across important initiatives like GIM and Climate Change Action Plan, which is grossly suboptimal. Under Project Tiger and Project Elephant, the utilization has been 30% only.

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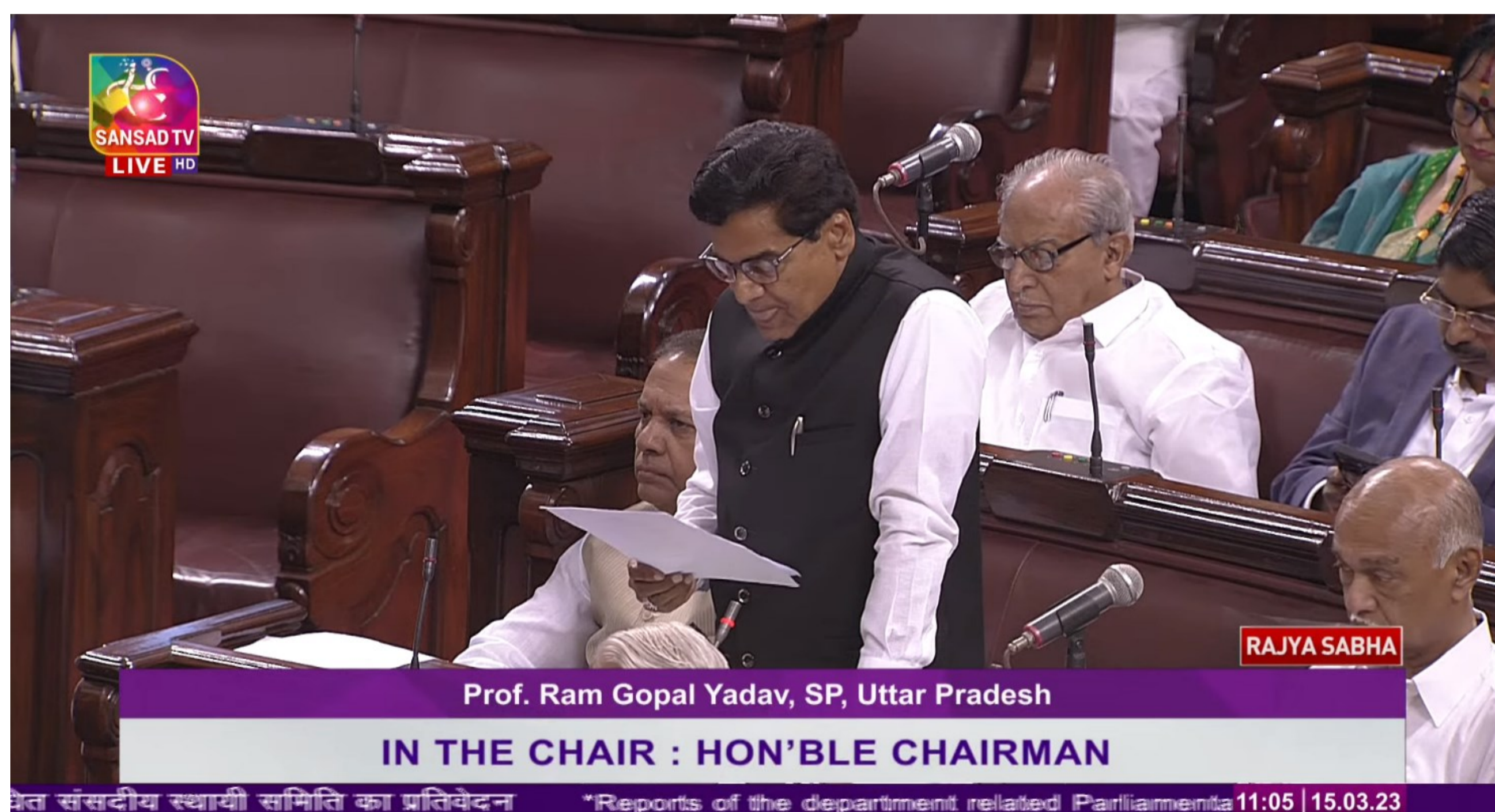
<sup>86</sup> 378th Report, Demands for Grants (2023-24) of the Ministry of Environment, Forest and Climate Change, Department Related Standing Committee on Science and Technology and Environment, Forest and Climate Change, Rajya Sabha, 15 March 2023, <<https://sansad.in/rs/committees/19?departmentally-related-standing-committees>> accessed 26 June 2023

<sup>87</sup> Ibid



MoEFCC submitted a request to the Ministry of Finance for additional budgetary support of ₹374 Crores for initiatives like GIM, control of pollution, Project Tiger, and Project Elephant and towards institutional support. The Department-Related Standing Committee recommended the allocation of such additional funds to MoEFCC by the Ministry of Finance.

Under the head of control of pollution, the committee has observed an increase of 200% since 2020-21 actual expenditure. Under the State-wise allocation towards the NCAP, the Department Related Standing Committee observed that many large States and States with more pollution levels had not been allocated funds in proportion to their population and pollution levels, while some States like Rajasthan, Gujarat, and Jharkhand did not receive any funds at all. The committee recommended the MoEFCC to revisit its monitoring framework to ensure that the data captured is not just quantitative but also qualitative, including parameters like practical living experiences of the public and social audit. The Department-Related Standing Committee recommended that the MoEFCC should take a 360° view by engaging with stakeholders, especially with the public representatives from the non-attainment cities under NCAP and establishing a channel of two-way communication. Another recommendation included monitoring of particulate matters as well.



**Photo 3. Prof Ram Gopal Yadav presenting Department Related Standing Committee Report on Demand for Grants of Ministry of Environment, Forest and Climate Change in the Rajya Sabha**

A gross underutilisation under Project Tiger and Project Elephant was observed. Furthermore, the Report stated that the budget allocation since financial year 2016-17 has not increased in proportion to the increase in the number of tiger and elephant reserves. Project Tiger and Project Elephant schemes were combined in 2023-24 into one single scheme and allocated ₹331 Crores in B.E. 2023-24. This was a reduction from last year's combined B.E. of ₹335 Crores wherein Project Tiger was allotted ₹300 Crores and Project Elephants was allotted ₹35 Crores. However, the R.E. 2022-23 for combined budget for Project Tiger and Project Elephant was just ₹220 Crores. Additionally, as per the Department-related Standing Committee's observation, the utilisation of this combined budget till January 2023 was just 30% of the R.E. 2022-23 i.e., ₹65 Crores out of ₹220 Crores.



Highlighting the societal and economic value of these projects, the Department-Related Standing Committee recommended the MoEFCC to ensure optimal utilization of funds allocated and to seek additional funds to achieve the targets set for wildlife conservation under these projects.

The Department-Related Standing Committee inquired from the MoEFCC on the ongoing crisis in Joshimath, the illegal construction activities in Mussoorie, Dhanaulti and the associated EC. It then recommended striking a balance between development and environment protection and adopting a mechanism for EC that is project specific. A more meticulous approach was suggested for projects in ecologically sensitive areas. The Department-Related Standing Committee also suggested a thorough assessment of illegal structures in these areas in the form of homestays, hotels, restaurants, etc., due to increased tourist activities. However, action was taken against only 100 complaints out of more than 5500 complaints received in 2021-22, to which the Committee recommended taking aggressive steps, including review of pending complaints and devising strategy with stakeholder institutions like CPCB, NGT, State Government etc.

Schemes like GIM, Integrated Development of Wildlife Habitats, Forest Fire Prevention and Management System, Biodiversity Conservation, Project Elephant, and Project Tiger are included in the CSS. The Department-Related Standing Committee observed that the disbursement made for CSS by the Centre until January 2023, which is ₹206.40 Crores is only one-third of the total revised allocation made in the year 2022-23, i.e., ₹549 Crores. Additionally, in the year 2022-23, 6 States received more than 50% of the total CSS allocation. Similarly, in this financial year 2023-24, States like Goa, J&K, Telangana have received negligible funds. The Department-Related Standing Committee has recommended a periodical assessment of the requirements of States under CSS and a mechanism of public participation to be devised to monitor and scrutinize these requirements.

## **B. Joint Committee on the Jan Vishwas (Amendment of Provisions) Bill, 2022**

On 22nd December 2022, the Ministry of Commerce and Industry introduced the Jan Vishwas (Amendment of Provisions) Bill, 2022 (“**Jan Vishwas Bill**”). The Jan Vishwas Bill seeks to amend 42 laws in force to decriminalise and rationalise minor offences to enhance trust-based governance for ease of living and doing business. This includes an amendment to 4 environment-related Acts: The Indian Forest Act, 1927 (“**IFA**”); EPA; Air (Prevention and Control of Pollution) Act 1981 (“**Air Act**”); and Public Liability Insurance Act 1991 (“**PLI**”). Vidhi published detailed comments on the provisions of the Jan Vishwas Bill.<sup>88</sup>

For consideration and comments, the Jan Vishwas Bill was sent to the Joint Committee on the Jan Vishwas (Amendment of Provisions) Bill, 2022 (“**JC-JV Bill**”). The JC-JV Bill comprises 31 members from both houses of the Parliament. The Committee submitted its report in RS on 17th March 2023. It commented on the respective legislations but did not suggest substantial

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<sup>88</sup> Debadityo Sinha, Himanshu Ahlawat, Shashank Pandey, ‘Analysis of Proposed Amendments to the Environmental Laws in Jan Vishwas (Amendment of Provisions) Bill, 2022’ (Vidhi Centre for Legal Policy) <<https://vidhilegalpolicy.in/research/analysis-of-proposed-amendments-to-the-environmental-laws-in-jan-vishwas-amendment-of-provisions-bill-2022/>> accessed 26 June 2023



changes. The suggestions and comments by the JC-JV Bill on environment related legislations are discussed in the following section.

## **I. Indian Forest Act, 1927**

The Jan Vishwas Bill sought to amend Section 26 (acts prohibited in reserved forests) and Section 33 (penalties for acts in contravention of notification under Section 30 or of rules under Section 32 regarding protected forests) of the IFA. The JC-JV Bill had posed multiple queries to MoEFCC for further clarification. Regarding the rationale behind the amendment, MoEFCC informed that some minor offences do not warrant a criminal penalty. Many such penalties are also non-justiciable, which may cause harassment to citizens, especially forest-dwelling communities. The amendments will convey to citizens that the government is committed to removing harassment, creating an atmosphere of trust-based governance, eliminating fear of imprisonment among tribal and forest-dwelling communities, and reducing litigation.

The JC-JV Bill inquired as to how the grazing of cattle would harm the reserved forest. MoEFCC responded that grazing by cattle leads to the degradation of forests, and the soil becomes compact.

Section 26 of the IFA enumerates a list of acts prohibited in the reserved forests. The JC-JV Bill suggested that the word 'fine' shall be replaced with 'penalty'.<sup>89</sup> Further, for the offense of trespassing, pasturing cattle, permitting cattle to trespass {Section 26(1)(d)}, penalty of ₹500 shall be kept and for causing damage by negligence in felling any tree or cutting or dragging any timber (Section 26 (1)(e)), penalty shall be increased from ₹500 to ₹5,000. Both Section 26(1)(d) and (e) were also suggested to be made compoundable.

Similarly, for Section 33, which provides for penalties for acts in contravention of notification under Section 30 or of rules under Section 32 regarding protected forests, the JC-JV Bill suggested that the words 'fine' shall be replaced with 'penalty'. A penalty of ₹500 shall be increased to ₹5,000 for violation of Sec33(1)(e), that is, leaving burning any fire kindled in the vicinity of any tree or closed portion in the protected forest. Section 33(1)(e) and 33(1)(f), which deals with felling or dragging of a tree or timber to cause damage to a tree in the protected forest, was recommended to be made compoundable. Section 33(1)(g), dealing with the clearing and breaking up of land for cultivation or other purposes in protected forests was recommended to be omitted.

## **II. The Air (Prevention and Control of Pollution) Act, 1981**

The Jan Vishwas Bill sought to amend certain provisions of the Air Act, such as Sections 21, 27, 28, 29, 40, 41, 43, and 53 and proposed to insert new Sections 21A, 39A, 39B, 39C, and 39D. The amendments mainly dealt with non-compliance with the provisions or rules, orders, and directions issued under the Air Act.

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<sup>89</sup> In common language, an appropriate authority can impose a penalty on an individual who has not followed the law but has not committed an offence. In simpler terms, a fine is the monetary amount that a court can require someone to pay for breaking the law after a successful legal case. Penalties, on the other hand, do not involve court proceedings and are enforced when a person fails to comply with a specific provision of an Act. Replacing fines with penalties in environmental law may have harmful effects by potentially weakening the deterrent effect on offenders and reducing the severity of consequences for non-compliance, which could undermine efforts to protect and preserve the environment.

MoEFCC submitted a similar rationale and benefits of the amendments as informed for IFA, which is, criminal punishment for minor and first-instance offences is not justifiable. It informed that as per the data, only 39 people were convicted out of 1737 criminal cases registered for violating the EPA, Water (Prevention and Control of Pollution) Act, 1974 and Air Act in the last three years (2019-21). The MoEFCC stated that the appointment of an adjudication officer will ease the burden on the criminal justice system, elimination of imprisonment on minor offenses will promote ease of doing business which in turn will boost foreign investments in India. Further, MoEFCC informed that the criminal provisions present in the Act, for non-minor offences, do not act as a deterrent. Thus, as per MoEFCC, heavier monetary penalties need to be introduced to ensure deterrence and self-regulation,

The JC-JV Bill only made some drafting suggestions for Section 21A and Section 39A to ensure legislative drafting uniformity.

### **III. Environment (Protection) Act, 1986**

The Jan Vishwas Bill sought to amend sections which primarily deal with offences under EPA, namely, Section 2 (definitions), Section 10 (power of entry and inspection), Section 14 (reports of government analysts), Section 15 (penalty for contravention of the provisions of the Act and the rules, orders and directions), Section 17 (offences by government departments), Section 19 (cognizance of offences), Section 24 (effect of other laws), and Section 25 (power to make rules). It also sought to insert new Sections, viz, 14A, 14B, 15A, 15B, 15C, 15D, 15E and 15F. The newly inserted Sections provide for penalty for contravention of different provisions of EPA, such as penalty for carrying on industry, operations, etc. with emission or discharge of environmental pollutants more than the standards, penalty for contravention by government departments etc. The Bill also added a new Chapter IIIA for Funds, Accounts and Audits.

The rationale for the amendment in EPA was the same as that submitted for the Air Act. In addition, the MoEFCC submitted that the amendment would lead to certain benefits, viz., encourage self-regulation and promote trust-based governance; the appointment of an adjudication officer will ease pressure on the criminal justice system; increased penalties will act as a deterrent to law-abiding entrepreneurs and will promote better corporate management practices, it will decrease the fear of imprisonment and increase foreign investment.

The JC-JV Bill made only one suggestion of increasing the penalty under Section 15, for contravention of the provisions of EPA and the rules, orders, and directions, from ₹5000 to ₹10,000.

### **IV. The Public Liability Insurance Act, 1991**

The Jan Vishwas Bill sought to amend almost half of the Sections of the PLI Act and insert new Sections 15A (appointment of adjudicating officer), 15B (appeal), 17A (crediting penalty amount to Environmental Relief Fund) and 17B (offence for failure to pay penalty or additional penalty). The Bill also omitted the Schedule attached to the PLI Act which specified the relief that is to be granted in cases on principle of no fault. The MoEFCC clarified that the Schedule containing the quantum of compensation is removed to make way for providing the same as rules which gives greater flexibility in revising the premium on the policy keeping in view the inflation index.

The JC-JV Bill gave no suggestions on the PLI Act and accepted the rationale and arguments advanced by the MoEFCC.

The JC-JV Bill provided a few general suggestions for all the legislation to be amended through the Jan Vishwas Bill. They urged State Governments also to carry out decriminalisation exercises in State legislations. Another suggestion by the JC-JV Bill was that the Central Government may issue an advisory in this direction to all the States. The JC-JV Bill also urged the respective ministries to appoint experts who can examine other legal provisions for decriminalization and requested respective governments to bring the Jan Vishwas Bill with retrospective effects.



## 6. BEYOND THE PARLIAMENT

This section brings forth updates on reports, notifications, circulars, and orders released by the MoEFCC or by other Ministries related to environmental matters. These updates may or may not fall strictly within the scope of parliamentary proceedings but are nevertheless associated with law-making process. Some of the essential updates are discussed below.

### A. COMMITTEE ON GOVERNMENT ASSURANCES (2022-23)

The Committee on Government Assurances (“CGA”), in its 76<sup>th</sup> Report, submitted a review of pending assurances pertaining to the MoEFCC on 22nd December 2022.<sup>90</sup> An ‘assurance’ is an undertaking, promise, etc., given by a minister during a reply to a question or discussion in the Parliament. It involves further action on the part of the government in reporting back to the house within 3 months from the date of such assurance. This limit is, however, extendable upon request by the concerned department or ministry, indicating reasons for the delay and additional time required and action taken so far. Where a ministry/department cannot implement an assurance, that ministry/ department is bound to request the CGA to drop it.



Photo 4. Proceedings of the Committee on Government Assurance on 1-2 September 2022 in Kochi, Kerala. (Source: Instagram handle of Mr Rajendra Agrawal)

<sup>90</sup> Committee On Government Assurances (2022-2023), Review of Pending Assurances Pertaining to the Ministry of Environment, Forest and Climate Change, <[https://eparlib.nic.in/bitstream/123456789/1464511/1/17\\_Government\\_Assurances\\_78.pdf](https://eparlib.nic.in/bitstream/123456789/1464511/1/17_Government_Assurances_78.pdf)> accessed 26 June 2023

The CGA is constituted in each house and is nominated by the concerned Chairperson or Speaker. It scrutinises the implementation reports and the time taken to fulfil government assurances and focuses on the delays and other significant aspects, if any, pertaining to them.

As per the CGA's report, there were 49 assurances pertaining to the MoEFCC pending implementation. The CGA at their sitting on 6<sup>th</sup> June 2022 took oral evidence of the representatives of the MoEFCC wherein the Chairperson asked the representatives to give an overview of the pending assurances and to apprise the committee about the internal mechanism, system of monitoring and review of pending assurances in the MoEFCC. 12 of the 21 assurances considered by the CGA were pending for 11 years and implemented on 27<sup>th</sup> July 2022. Another 2 assurances that had been pending for more than 3 years were implemented on August 8<sup>th</sup>, 2022, while 7 assurances still could not be fulfilled.

The CGA acknowledged that implementation of some of the assurances, especially concerning policy matters and contentious issues, assurances involving other ministries and departments might be difficult to execute in prescribed time limit. However, it called for sustained efforts toward implementing assurances as solemn parliamentary obligations.

## **I. Important Pending Assurances**

The CGA's December 2022 Report reviewed 3 pending assurances of the MoEFCC and made detailed observations/ recommendations on the same.

Firstly, it addressed the assurance related to the implementation of the new National Forest Policy, which the MoEFCC had undertaken to draft through the Indian Institute of Forest Management. This has been pending since 2017. The CGA expressed strong objection to such a considerable delay of 5 years. The CGA also pointed towards its earlier emphasis on bringing a logical end to this assurance in its 46<sup>th</sup> and 47<sup>th</sup> reports and safeguarding ecological balance and livelihood security of people and future generations based on preservation, expansion, and sustainable management of forests.

The second assurance relates to the declaration of Eco-Sensitive Areas ("ESA") of the Western Ghats. The MoEFCC stated in response to questions asked in 2018 and 2019 that it is willing to finalise the ESA Notification duly considering the views of the public/stakeholders and the concerned State Governments of the Western Ghats region in consultation with the Expert Committee of Eco-Sensitive Zone. The CGA acknowledged the sincere attempts made by the MoEFCC in this regard but recommended chalking out an action plan to finalise the notification.

The third assurance highlighted by the CGA relates to the amendments in the EIA Notification 2006, which has been pending since 2019. The COVID-19 pandemic was stated as the primary reason for the delay by the MoEFCC. It was brought to the attention of the CGA that draft EIA Notification 2020 was published in the official gazette on 11<sup>th</sup> April 2020 for the information of the public likely to be affected thereby and for giving suggestions on the proposals. MoEFCC informed that more than 20 lakh comments were received initially, and about 725 comments were received through email after the translated version of the notification was published. It further got delayed due to the amendment of Environment (Protection) Rules in 2021.<sup>91</sup> CGA was informed that the draft notification is still under finalisation. The CGA commented that

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<sup>91</sup> Environment (Protection) Amendment Rules 2021, SI 2021/2346 (E)



EIA has significant role in promoting and upholding a balance between development and environmental preservation and reaching the sustainable goals. It recommended the MoEFCC to make earnest and vigorous efforts to expedite the fulfilment of the Assurance.

## II. Implementation Reports

As per the statement of Ministry of Parliamentary Affairs, the implementation reports of 14 assurances have been laid on the table of the LS on 27<sup>th</sup> July and 8<sup>th</sup> August 2022. These relate to, *inter alia*, River Zone Control Act,<sup>92</sup> regulation of hunting, recycling of plastics, forest-based projects, EC for irrigation projects.

## B. Amendments to the Offshore Areas Mineral (Development and Regulation) Act

On 9<sup>th</sup> February 2023, Ministry of Mines released a notice for public consultation on the draft prepared by it for amendments proposed to the Offshore Areas Mineral (Development and Regulation) Act, 2002 (“OAMDR Act”). Public comments and suggestions were invited on or before 11<sup>th</sup> March 2023.<sup>93</sup> The Bill is likely to be introduced in the Parliament in the upcoming Monsoon-Session.<sup>94</sup>

The OAMDR Act provides for the ‘development and regulation of mineral resources in the offshore areas, viz., territorial waters, continental shelf, exclusive economic zone and other maritime zones of India’. The proposed amendment seeks to amend, *inter alia*, Section 4 (definition of ‘licence’, ‘mine’, ‘operating right’, ‘production lease’, ‘reconnaissance permit’, ‘vessel’), Section 5 (reconnaissance, exploration, or production to be under permit, licence or lease), Section 6 and 7 (grant and termination of operating right), Section 8 (reservation of areas), Section 23 (offences). The proposed amendment seeks to insert in Section 4, the definition of ‘composite licence’, ‘dispatch’, ‘government company’, ‘production’ and ‘standard block’. Further it seeks to insert Section 7A (lapse of rights of holder of any operating right, reconnaissance permit, exploration licence or production lease or any applicant thereto), Section 12 (grant of composite licence), Section 13 (grant of production lease, Section 16A (establishment of offshore Areas Mineral Trust and introduces other new provisions as well. The amendment also proposes the deletion of Section 11 and 12 (grant of reconnaissance permit and exploration licence respectively).

## I. Privatisation of the Offshore Mineral Resources

‘Mineral resources’ defined under Section 4(I) of the OAMDR Act include all minerals except mineral oil and hydrocarbon resources relating thereto. The primary reason stated for the proposed amendments is to encourage public-private sector participation to realise the full potential of marine resources. The Ministry of Mines in the note prepared by it on the proposed amendments has stated that the Geological Survey of India (“GSI”) has estimated 79 million

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<sup>92</sup> ‘River Zone Control Act’, PIB, <<https://pib.gov.in/newsite/PrintRelease.aspx?relid=74045>> accessed 26 June 2023

<sup>93</sup> Public Notice, Ministry of Mines, M. VI- 1/1/2022- Mines VI- Part (1), 9 February 2023, <<https://mines.gov.in/admin/storage/app/uploads/64425c17cbc231682070551.pdf>> accessed 26 June 2023

<sup>94</sup> ‘Govt to Introduce Amendment Bill for Offshore Minerals - The Economic Times’ <<https://economictimes.indiatimes.com/industry/indl-goods/svs/metals-mining/govt-to-introduce-amendment-bill-for-offshore-minerals/articleshow/100392921.cms>> accessed 26 June 2023



tons of heavy mineral resources, 745 million tons of construction sand in territorial waters.<sup>95</sup> The ministry emphasised the need to harness these resources optimally to support the high-growth economy.<sup>96</sup> Under proposed Section 5, reconnaissance, exploration or production permit, licence or lease can be issued to any authorised private entity on terms and conditions laid down by the Central Government. Until now mining, reconnaissance, exploration or production of these minerals is exclusively permitted only to public entities. Therefore, through the proposed amendments, private sector involvement has been introduced for the first time with respect to offshore mineral resources.

## **II. Auction-based Regime**

The amendment proposes auction for allocation of mineral resources through competitive bidding. Under the current regime, to conduct reconnaissance, exploration or production operations, different permit, licence, or lease, also known as operating right, is required to be granted separately for different kind of operations. The proposed amendments allow for a composite licence, that is, an exploration licence-cum-production lease, which is a two-stage operating right granted for the purpose of undertaking exploration operation followed by production operation. In the proposed amendments, operating rights such as production lease and composite license are also to be granted through auction by competitive bidding.

Operating rights granted before the commencement of these amendments, are proposed to lapse. Renewal of production leases is also prohibited under the proposed amendments and the period of production lease of composite licence has been increased to 50 years. The amendment also proposes a non-lapsable Offshore Areas Mineral Trust, which will maintain a fund under the Public Account of India. Operating rights under the proposed amendments can also be terminated prematurely on the ground of public interest, the strategic interest of the country or 'any other reason' by the Central Government after consultation with the administering authority (the authority notified as such for the purpose of the Act by the Central Government in the official gazette).

The proposed amendments, thus, makes fundamental changes to the existing regime. The provision for 'any other reason' gives wide powers to the Central Government and can be a cause of concern, among other issues.

## **III. Concerns with the Proposed Amendments**

The proposed amendments appear in derogation of the Coastal Regulation Zone Notification, 2019 ("**CRZ Notification**"). CRZ -IVA covers water area and the seabed area between the Low Tide Line up to 12 nautical miles on the seaward side, which essentially falls within the scope of OAMDR Act as constituting territorial waters. For minerals, the CRZ Notification under the permitted activities, provides for exploration and mining of atomic minerals and minerals associated with them within CRZ-IV. The prohibited activities within CRZ under paragraph 4 include the expansion of existing industries, operations or processes and mining of sand, rocks, and other sub-strata materials.

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<sup>95</sup> Public Notice, M. VI- 1/1/2022- Mines VI- Part (1), Ministry of Mines, 9 February, 2023  
<<https://mines.gov.in/admin/storage/app/uploads/64425c17cbc231682070551.pdf>> accessed 26 June 2023

<sup>96</sup> Ibid

Legalising beach sand and mineral mining by the private sector also has serious implications for the livelihood of coastal fishing communities, species dependent on the coastal ecosystems, and climate resilience of coastal ecosystems.<sup>97</sup>

## C. Breeders of Species Licence Rules, 2023

The WPA was amended in 2022. In exercise of the power conferred under Section 49N of WPA, the Central Government notified Breeders of Species Licence Rules vide gazette notification dated 24<sup>th</sup> April 2023.<sup>98</sup> The rules lay down the procedure for granting of licence to any person who is engaged or intend to breed in captivity or artificially propagating a scheduled specimen listed in Appendix I to Schedule IV of the WPA.

The rules provide for the procedural requirements for the licence such as filing of the application, fees, registration, cancellation of licence etc. The application is to be made to the Chief Wildlife Warden. The Appendix I species, that the rules mention, are the most endangered species among the CITES listed animals and plants. CITES prohibits international trade in these species except for import for non-commercial purposes.

However, when bred in captivity or artificially propagated, the Appendix I species are deemed to be Appendix II species.<sup>99</sup> Article III and IV of CITES provide for regulation of trade in specimens of species in Appendix I and Appendix II respectively. Paragraph 3(c) of Article III specifically prohibits import of Appendix I species for primarily commercial purposes and for purposes detrimental to the survival of the species. In the case of import of live animals or plants, suitability of the proposed recipient to house and care for it is also to be satisfied. While there are other restrictions for Appendix II species, the above restrictions are not there. Hence, controlled trading in Appendix II species is permitted. Many concerns have been raised that the new Rules would result in an increase in the breeding of Appendix I Species for export and commercial purposes.<sup>100</sup>

## D. Draft Hazardous and Other Wastes (Management and Transboundary Movement) Amendment Rules, 2023

On 2<sup>nd</sup> May 2023, the MoEFCC published the draft notification for bringing out regulations for EPR for used oil, in the exercise of the powers conferred by Sections 6, 8 and 25 of the EPA.<sup>101</sup> Objections and suggestions on the proposals in the draft notification were invited by the MoEFCC within 60 days of the notification. The principal rules are contained under Hazardous and Other Wastes (Management and Transboundary Movement) Amendment Rules, 2015.

The Preamble to the rules states that the energy required to manufacture re-refined base oil from used oil is only one-third of the energy required to refine crude oil to produce virgin base oil. It also minimises waste and reduces damage to the environment. The rules make it the responsibility of any producer of base oil or lubrication oil or importer of used oil to meet recycling targets only through registered

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<sup>97</sup> Abdulali S, 'Why Beach Sand Mining Is So Dangerous' The Times of India <<https://timesofindia.indiatimes.com/blogs/voices/why-beach-sand-mining-is-so-dangerous/>> accessed 26 June 2023

<sup>98</sup> Breeders of Species Licence Rules 2023, SI 2023/1950(E)

<sup>99</sup> Article 7(4), Convention on International Trade in Endangered Species of Wild Flora and Fauna <<https://cites.org/eng/disc/text.php>> accessed 26 June 2023

<sup>100</sup> Jayashree Nandi, 'India begins regulating captive breeding of exotic animals through license system', Hindutan Times, 13 May 2023, <<https://www.hindustantimes.com/india-news/india-allows-captive-breeding-of-cites-appendix-i-species-under-new-license-rules-conservationists-express-concerns-101683950449131.html>> accessed 22 June 2023

<sup>101</sup> Hazardous and Other Wastes (Management and Transboundary Movement) Amendment Rules 2023, SI 2023/338(E)



recyclers to ensure environmentally sound management of used oil. The rules also mandate the CPCB to lay down guidelines for environmental compensation for violation of the rules.

## E. International Big Cat Alliance

During the ‘Commemoration of 50 years of Project Tiger’ program at Mysuru University in Karnataka, on 9<sup>th</sup> April 2023, the International Big Cats Alliance (“IBCA”) was launched for the conservation of seven big cats, namely, Tiger, Lion, Leopard, Snow Leopard, Cheetah, Jaguar, and Puma. Union Minister for MoEFCC stated that the alliance will strengthen global efforts and partnerships on big cat conservation. IBCA also aims at working as a platform to develop best practices and provide support for platforms that support existing species and recovery efforts in potential range habitats.<sup>102</sup>



Photo 5. International Big Cat Alliance launched at Mysuru University, Karnataka on 9th April 2023 during commemoration of 50 years of Project Tiger. (Source: Twitter handle @byadavbjp)

## F. Notifications Declaring ESZs

The MoEFCC, under the power conferred under Section 3 of EPA, released gazetted notifications for the information of the public inviting objections/ suggestion on the declaration of certain areas around some Wildlife Sanctuaries as ESZs. These newly notified ESZs, since last 2022 winter session of the Parliament, include the area around the Tal Chhapar Wildlife Sanctuary,<sup>103</sup> Rajasthan, Sharavathi Valley Lion Tailed Macaque (LTM) Sanctuary, Karnataka,<sup>104</sup> Gudekote Sloth Bear Sanctuary, Karnataka.<sup>105</sup>

## G. Live-stock and Live-stock Products [Importation and Exportation] Bill, 2023

The Department of Animal Husbandry and Dairy (“DAHD”) under the Ministry of Fisheries, Animal Husbandry and Dairying released an Office Memorandum (“OM”) on 7th June, 2023, inviting comments/suggestions from all stakeholders/importers/exporters on Live-stock and Live-stock Products [Importation and Exportation] Bill, 2023 (“Live-stock Bill”) within a period of 10 days.<sup>106</sup>

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<sup>102</sup> ‘International Big Cat Alliance’ <<https://pib.gov.in/pib.gov.in/Pressreleaseshare.aspx?PRID=1915372>> accessed 26 June 2023

<sup>103</sup> Gazette Notification, MoEFCC, SI 2023/2000(E)

<sup>104</sup> Gazette Notification, MoEFCC, SI 2023/1197(E)

<sup>105</sup> Gazette Notification, MoEFCC, SI 2023/1226(E)

<sup>106</sup> Office Memorandum, ‘Live-stock and Live-stock Products [Importation and Exportation] Bill, 2023-reg’, Ministry of Fisheries Animal Husbandry and Dairying, 7 June 2023 <<https://dahd.nic.in/sites/default/files/THELIVE-STOCKANDLIVE-STOCKPRODUCTS%5BIMPORTATIONANDEXPORTATION%5DBILL%2C2023.pdf>> accessed on 20 June 2023



However, on 20th June, 2023, DAHD withdrew the proposed draft Bill stating the need for wider consultation keeping in view the sensitivity with animal welfare and related aspects.<sup>107</sup>

Through the Live-stock Bill, the DAHD sought to repeal the Live-stock Importation Act, 1898 (“**1898 Act**”). While the 1898 Act only dealt with import of live-stock and live-stock products, the Live-stock Bill extends it to export as well. The Live-stock Bill treated ‘live-stock, products of live-stock origin, live-stock genetic material, biological products and pathological material of live-stock origin’ as “commodity” under Section 2(a). Within the definition of live-stock and live-stock products, many new categories were added. Definition of live-stock under Section 2(e) included ‘all equines (all live equine irrespective of purpose including donkey, horses, mule, assess, hinnies), bovines (all bovine animals including cattle, buffaloes, bullocks or any animals falling in the category of bovidae), caprines, ovines, swines, canines, felines, avian, laboratory animals, aquatic animals and any other animal which may be specified by the Central Government’.

This change raised concerns by experts and animal rights organisation underlining the threat of ‘commodification’ of animals for export and resulting in cruelty to animals.<sup>108</sup> Concerns were also raised regarding spoiling the gene-pool of native animals through large scale and unregulated export and import to non-conducive climates.<sup>109</sup>

Further, BDA defines ‘biological resources’ to include genetic material of animals. Under Section 3 of BDA, permission of NBA is required for commercial utilisation of biological resources. The Preamble to BDA also mentions equitable sharing of the benefits arising out of utilisation of genetic resources. Under the Live-stock Bill, no reference was made to the BDA despite having significant bearing on it.

The Live-stock Bill proposes a significant change in the distribution of power regarding its subject matter. Under the current Section 4 of the 1898 Act, the State Government possesses the authority to establish rules pertaining to the Act. However, the Live-stock Bill aims to transfer this power exclusively to the Central Government, as stipulated in the proposed Section 6. This alteration effectively eliminates the role of the State Government in matters related to the Act, consolidating all decision-making powers at the central level.

Under the Seventh Schedule of the Constitution of India, the subject of ‘import and export across customs frontiers’ falls under the Union list. However, the proposed Preamble to the Live-stock Bill suggests that it aims to regulate/ promote/ develop the import and export of live-stock and live-stock products in such a way as to prevent transboundary, exotic, or infectious diseases. The subject of ‘preservation, protection and improvement of stock and prevention of animal diseases; veterinary training and practice’ falls within the domain of States under Entry 15 of List II.

Further, under the Concurrent List, subjects of ‘prevention of cruelty to animals’ and ‘prevention of the extension from one State to another of infectious or contagious diseases or pests affecting men, animals or plants’ fall under Entry 17 and 29 respectively. The subjects encompassed within the Live-stock Bill seem to encroach upon the State's jurisdiction to legislate on these matters. Therefore, the Live-stock Bill, at first glance, seems to exceed the legislative authority granted to the Union government as prescribed by our Constitution.<sup>110</sup>

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<sup>107</sup> Office Memorandum, ‘Live-stock and Live-stock Products [Importation and Exportation] Bill, 2023-reg’, Ministry of Fisheries Animal Husbandry and Dairying, 20 June 2023 <<https://dahd.nic.in/sites/default/files/O.M.20June2023onDraftBill2023.pdf>> accessed on 25 June 2023

<sup>108</sup> Sarthak Roy, “Explainer: Why the livestock Bill was withdrawn”, The Financial Express, 24 June 2023, <https://www.financialexpress.com/india-news/explainer-why-the-livestock-bill-was-withdrawn/3140298/> accessed on 25 June 2023

<sup>109</sup> Risha Chitlangia, “Why animal lovers, activists are up in arms against draft livestock bill – ‘cruelty, spoil native gene pool’,” ThePrint, 17 June 2023, < <https://theprint.in/india/why-animal-lovers-activists-are-up-in-arms-against-draft-livestock-bill-cruelty-spoil-native-gene-pool/1630851/>> accessed on 25 June 2023

<sup>110</sup> K.C.C. Gajapati Narayan Deo vs. State of Orissa, 1953 AIR 375

# H. Draft Green Credit Programme Implementation Rules, 2023

The MoEFCC vide a notification in the official gazette dated 26th June 2023 published 'Draft Green Credit Programme Implementation Rules, 2023' ("GCP Rules")<sup>111</sup> under Section 3(2)(iii) of EPA. Objections or suggestions are invited from the public within 60 days of the notification.

The Preamble to the GCP Rules lays down the key highlights and purpose of the Green Credit Programme ("GCP"). GCP is meant to promote the Lifestyle for Environment ("LiFE") movement, create a competitive market-based approach for Green Credits, incentivise voluntary environmental action, etc.

Section 2 of the GCP Rules state the objectives of the GCP as 'to create a market-based mechanism for providing incentives to individuals, farmer producer organisations, cooperatives, forestry enterprises, sustainable agriculture enterprises, urban and rural local bodies, private sectors, industries and organisations for environment positive actions.'

Section 3 defines Green Credit as 'a singular unit of an incentive provided for a specified activity, delivering a positive impact on the environment'. Section 4 proposes an implementation mechanism for GCP whereby it is proposed to be implemented in a phased manner through the 8 sectors. These sectors include Green Credits based on- tree plantation, water, sustainable agriculture, waste management, air pollution reduction, mangrove conservation and restoration, Ecomark, sustainable building and infrastructure.

Different bodies and platforms and their functions are also envisaged under the GCP Rules. These include i) *Steering Committee*, that shall be responsible for the governance of GCP for its effective implementation; ii) *GCP Administrator*, that shall be responsible for implementation, management, monitoring, and operation of the GCP. ICFRE has been identified for this purpose; iii) *Technical/ Sectoral Committees*, that shall be responsible for developing methodologies, standards and processes for registration of Green Credit activities and grant of Green Credits; iv) *Green Credit Registry*, that shall be in the form of a standardised electronic database; v) *Trading Platform* shall for the exchange of Green Credits; vi) *Knowledge and Data Platform*, for transparency and monitoring progress; vii) *Accredited Green Credit Verifiers*, that shall conduct verification and submit reports to the Administrator for grant of Green Credits.

The GCP is envisaged to be based on voluntary participation of the stakeholders. However, the Steering Committee has been made responsible to devise measures to generate the voluntary demand for Green Credits. Accredited Compensatory Afforestation under the 'guidelines on the accredited compensatory afforestation'<sup>112</sup> has been made subject to qualification and allocation of Green Credits under the GCP for being eligible as compensatory afforestation for diversion of forest land. It also empowers the Central Government to empanel auditors for audit of the entire system of the programme functioning and administration.

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<sup>111</sup> S.O. 2779(E), Draft Green Credit Programme Implementation Rules, 2023, < <https://moef.gov.in/wp-content/uploads/2023/06/Draft-GCP-Notification-Inviting-Comments-27062023.pdf>> accessed on 27 June 2023

<sup>112</sup> MoEFCC, FC-11/159/2022-FC, 'Guidelines on the Accredited Compensatory Afforestation', 23 January 2023<[https://forestclearance.nic.in/writereaddata/public\\_display/schemes/354734717\\$Guidelines%20on%20Accredited%20Compensatory%20Afforestation.pdf](https://forestclearance.nic.in/writereaddata/public_display/schemes/354734717$Guidelines%20on%20Accredited%20Compensatory%20Afforestation.pdf)> accessed on 2 July 2023

# 7. UPCOMING: MONSOON SESSION 2023

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The next session of the Parliament will be held from 20<sup>th</sup> July 2023 to 11<sup>th</sup> August 2023. The session is expected to be conducted in the new Parliament building.<sup>113</sup>

The JC-FCA Bill is expected to table its report on the FCA Bill in Parliament on the last working day of the first week of the Monsoon session. Hence, the report is expected to be tabled on July 21st, 2023. The FCA Bill is proposed to be considered and passed after the report is presented in Parliament. The Biological Diversity (Amendment) Bill 2022 and the Jan Vishwas (Amendment of Provisions) Bill, 2023 are also proposed to be tabled in Parliament for consideration and passing.<sup>114</sup>

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<sup>113</sup> 'Monsoon session of Parliament to commence on July 20, conclude on August 11: Pralhad Joshi', The Indian Express, 1 July 2023, <<https://indianexpress.com/article/india/monsoon-session-parliament-dates-july-20-8695608/>> accessed on 28 June 2023

<sup>114</sup> Bulletin II, No. 6856-6860, Lok Sabha, Parliament of India, 13 July 2023, <<https://sansad.in/lb/business/agenda>> accessed on 12 July 2023



# “Feedback from Readers”

*The Green Hour is an excellent initiative to comprehensively track and analyze issues relating to the environment & climate in Parliament. This will not only serve as a useful reference for Members of Parliament, but for anybody studying legislative functioning from an environmental lens. I hope it prompts more MPs to work on parliamentary interventions in this area, a critical need in times of accelerating environmental degradation & climate change.*

**MR PRADYUT BORDOLOI, MEMBER OF PARLIAMENT (NAWGONG, ASSAM), LOK SABHA  
PARLIAMENT OF INDIA**

*This is a great compilation which sheds light on important aspects. It is good to see MPs interventions being concerned in the report. We should have similar issues for other subjects as well.*

**MR SUJEET KUMAR, MEMBER OF PARLIAMENT (ODISHA), RAJYA SABHA  
PARLIAMENT OF INDIA**

*To understand how the Centre and various political parties see environmental issues, what is the thinking behind certain amendments and bills, it's important to track Parliamentary proceedings. VIDHI's The Green Hour gives a transparent and comprehensive analysis of what transpired in the Parliament and it's implications. It's an important resource for environmental journalists.*

**MS JAYASHREE NANDI, CLIMATE AND ENVIRONMENT CORRESPONDENT  
HINDUSTAN TIMES**

*I congratulate the authors on such a wonderful report. I think this report is really important because even as someone who follows environmental news closely, I don't get to read a lot on parliamentary processes and govt's responses to environment related-questions raised in the parliament. Further, some of the analysis really helped me think of some direction Youth for Climate's campaigning can take. I loved the figures and short analysis which followed with them. I think it's written in a very easy to understand manner. Already looking forward to the next report!*

**MS SRIJANI DATTA, CO-FOUNDER  
YOUTH FOR CLIMATE INDIA**

***We welcome your feedback at [environment@vidhilegalpolicy.in](mailto:environment@vidhilegalpolicy.in)***

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