CHAPTER – 4

DATA ANALYSIS
Chapter 4

Data Analysis

4.1 Introduction

Analysis is categorized according to two conflict forms, namely, planters vs. the state and peasants vs. the state. After an initial exposition of the political and legal circumstances that had lead to the emergence of the mentioned conflict forms, such forms shall be presented individually. Planters conflicts with the state shall remain the first category of analysis followed by peasants' conflicts with the state. Each conflict category shall be categorized according to three sections, namely, conflict identities, political and legal contexts of conflict and conflict strategies and ideologies. The identities of plantations shall be established in relation to their corporate characteristics, market relations, resource use and legal aspects of resource access and control. Conflict strategies of planters will be discerned according to litigative and non-litigative resistance and conflict ideologies shall be ascertained in relation to productive deployment of forests and estimates of forests. Peasant identities will be determined in terms of subsistence or market basis of production, the sustainability of the productive enterprise and community traditions that condition resource use and resistance strategies. Peasant ideologies shall be induced from notions of forest

4.2 The Janmam Estate and the Janmam Legislation

The analysis of field and archival data reveal the prevalence of distinct configurations of forests and within them the incidence of distinct forms of resistance, idiosyncratic identities, trajectories and articulations. Such configurations are the results of the Tamil Nadu government's codification of private janmam forests according to legal
sections encoded in the Gudalur Jammam Estates Act of 1969. The Jammam legislation was part of an agrarian reform regime initiated in the post-independence period to eliminate intermediaries between the government and ryots. Thus, the Jammam Act purported to 'provide for the acquisition of the rights of the jammie's in the Nilgiris district and the introduction of ryotwari settlement in such estates'. Though progressive politics of the post-colonial period provide the wider framework for the Jammam legislation, the specific milieu of Gudalur is illustrative. The situated rationale for the Jammam Act lay in the incidence till late 1974, of a culturally and economically inconsistent land tenure within the political boundaries of Tamil Nadu, which in actuality characterized erstwhile landed tenures of the neighboring state of Kerala. The policy of abolition of intermediaries through legislative action since state reorganization had been successfully realized in Tamil Nadu with the exception of the 'jamm system' which 'remained unaffected by legislation' and was 'still in vogue in the Gudalur taluk of the Nilgiri district'. The natural vegetation of the jammam estate also remained a significant reason for abolishing the tenure. Based on their visits to the region revenue and forest officials suggested the regularization of occupied lands and the transfer of major unoccupied forest portions to the forest department. The regularization of encroachments during 1960 gave the impetus for further encroachments in Jammam and non jammam forest lands in Gudalur. Upon a report

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2. 'State' is a legally coined term which is defined in the Indian Constitution as any land held by virtue of grant, freehold or more significantly any land held or let for purpose of agriculture or for purpose ancillary thereto, including waste land, forests or pasture. The jammam estate denotes lands held by the jamm. Etymologically, jammam implies in Malayalam, 'birth' or 'birth right' and hereditary, and thus absolute proprietary. Jamm pertains to the person who held such possessed right of jammam and as the absolute proprietor could create subordinate interests or tenures in its land.


4. Interpretation of the rationale for the Jammam Act given by the Madras High Court in its judgment in West Petram (henceforth WP1 nos. 64, 117-121, 185, 186 and 220 of 1970 in the Nellai Mar Kovalagam vs. The State of Tamil Nadu

filed by a revenue divisional officer and in consultation with the erstwhile board of revenue, the government decided to abolish the jammany estate, monetarily compensate the jammie’s and introduce ryotwari patta.

In addition to section 53 forests handed over to the forest department for notification as reserve forests, the revenue department had also transferred non jammany lands to the forest department for similar notification. Conflicts in private forests have acquired the forms of plantations vs. the state and encroachers vs. the state. Litigation and social protests between plantations, peasants and the state have persisted over three decades and characterize contemporary conflict realities. Amidst the persistence of such conflict forms, certain other conflict variations are evident or have emerged and receded. Among these, inter community conflicts over natural resources between old and new settlers that emerged during the first and second decades in contention have receded. Without any implications of resolution or result, the trajectories of this conflict form suggest initial animosity that could not be sustained over time. Intra-state conflicts perceivable in hostilities between the forest and revenue departments over private forests are treated as contexts along with jammie-state conflicts.

Encroacher peasants in Gudalur acquire their conflict identities chiefly from the occupation of reserve forest and lands and section 17 forests. A wider configuration of conflict identity as would entail in peasant conflicts over forest access and control, and requires contextual delineation is peasant production, its dependence on forest resources and the subsequent surmise of sustainability involving resource use and regulation, such economic activity circumscribed by a moral economy. Moral
economic identities primarily entail a subsistence ethic guaranteed by customary and traditional rights of access and control, economic obligations and reciprocity, such moral tenets invoked by the community to resist the state or market threats to provisioned subsistence. While moral economic identity formation entails strong spatio-temporal subtexts of locality and tradition, conflict identities of peasants in Gudalur are contradictorily the consequences of migration that negates such social, spatial and temporal dimensions.

4.3 Conflicts between Planters and the State

4.3.1 Actor Identities

4.3.1.1 Corporate Identities of Planters and Plantations

Plantations in the Nilgiri Wynaad are historically coffee, cinchona, rubber and tea planting ventures initiated, individually or in partnership, during the mid and late 19th century by British pioneer planters with military, civilian and entrepreneurial backgrounds. Contemporarily under Indian proprietary, plantations are individually possessed and corporatized estates involved in monocultural production of tea. An estimated extent of 50,300 acres (177.92 sq km) are in the possession of 11 major and 80 minor tea estates of which major estates possess a superior share of approximately 42,000 acres, while minor estates constitute around 8000 acres. The predominant vegetative character of this combined extent are forests whose acreage covers nearly 30,2450 acres. The following table contains a register of major tea estates, the character of proprietary and acreage.
<table>
<thead>
<tr>
<th>Estate</th>
<th>Nature of Proprietary</th>
<th>Landed Extent (in acres)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Woodbriar</td>
<td>Individual</td>
<td>847.95</td>
</tr>
<tr>
<td>Sussex</td>
<td>Individual</td>
<td>1,137.34</td>
</tr>
<tr>
<td>Rousdan Mallai</td>
<td>Individual</td>
<td>860.55</td>
</tr>
<tr>
<td>Non Such</td>
<td>Mahaveer Groups</td>
<td>1,836.82</td>
</tr>
<tr>
<td>Malayalam</td>
<td>Harrisons Malayalam Ltd</td>
<td>1,261.80</td>
</tr>
<tr>
<td>Peria Shola</td>
<td>Individual</td>
<td>1,359.56</td>
</tr>
<tr>
<td>Cooperative Wholesale Society</td>
<td>E.I.D. Parry Ltd</td>
<td>640.47</td>
</tr>
<tr>
<td>Tea Estates India ltd.</td>
<td>Hindustan Lever Ltd</td>
<td>5,980.02</td>
</tr>
<tr>
<td>Manjushreee</td>
<td>Birla Groups</td>
<td>19,675.00</td>
</tr>
<tr>
<td>Glenrock</td>
<td>Individual</td>
<td>6,456.00</td>
</tr>
<tr>
<td>Silver Cloud</td>
<td>Individual</td>
<td>1,907.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>41,963.00</strong></td>
</tr>
</tbody>
</table>

The Woodbriar, Sussex, Rousdan Mallai, Peria Shola, Glenrock and Silver Cloud estates are individually owned and managed estates whose proprietors are locally and regionally based south Indians who have assumed proprietary from English and Indian planters. The Woodbriar and Sussex estates belong to a Tamil planter who assumed proprietary from a Malayalee planter in the 1970s. Rousdan Mallai, in possession of planters of Tamil origin, originally constituted portions of Tea Estates India Ltd. The Glenrock estate, an early colonial mining and plantation endeavor contemporarily forms part of the business interests of a Madras based family. The Silver Cloud Estate is a consolidation by a planter from the Western coast of south India, of smaller estates owned by members of a south Indian merchant class. The
Non Such estate, Malayalam Plantations, Cooperative Wholesale Society, Tea Estates Ltd and Manjushree are the plantation interests of Indian corporate and industrial houses. The Harrisons Malayalam is the contemporary counterpart of the colonial plantation endeavor of the East India Tea and Produce Company. The Manjushree plantations, inherited upon the demise of pioneer coffee planter J.H. Ochterlony by his manager in 1921, latter registered as the O'Valley trust in 1938 and purchased by a firm, Pierce and Leslie, since 1969 constitutes the plantation interests of the Indian industrial corporation of the Birlas. Non Such estates forms part of a north Indian business concern known as the Mahaveer groups. The Cooperative Wholesale Society was a colonial partnership with the English Scottish company and was taken over by Parry Agro Ltd in the mid 1980s. Tea estates India Ltd was during the colonial period, Madras Tea Estate or the Davera Shola estate and as a consequence of mergers and amalgamations in the post colonial period now belongs to the Hindustan Lever Ltd, which is the Indian subsidiary of the multinational business conglomerate, Union Lever Ltd.

Plantations, historically part of the Nilgiri Wynad Planters' Association formed in 1918, are contemporarily also the members of the Planters' Association of Tamil Nadu (PAT), a formally constituted body. Planters collectively concur in the association's role in representing their legal interests and public relations with the state and media, respectively. The PAT partakes in negotiations with the revenue and forest bureaucracies and in debates and clarifications in the media over the status of private forests. While the corporate classification of plantations assists in the location of their entrepreneurial identities, it is the ecological characteristics of their

² Information on The Silver Cloud estate, Cooperative Wholesale Society (Parry Agro Ltd), Tea Estates India Ltd (TIL), and Manjushree are also based on interviews.
productive base, its legal status, and changes in the same that provide plantations with their key identities as conflict actors.

4.3.1.2 Ecology, Plantation Economy, Production and Sustainability

The floristic character of forests in estates that lie in southern portions such as O’Valley, Devada and portions of Nelliyam, namely, the Manjushree plantations, Non-Such estate, Peria Shola, Rousdan Malai and Glenrock estate, is principally west-coast tropical evergreen. The moist deciduous type characterises undeveloped lands in the Sussex estate, northern portions of Tea Estates India Ltd (HLL), and Malayalam Plantations that lie in northern and north-eastern regions such as Gudalur, Padanthorai and Cherumulli. Semi-evergreen forests occur in plantations such as the Cooperative Wholesale Society that lies between portions vegetated by evergreen forests and moist deciduous forests\textsuperscript{7}. Climatic and topographical factors that facilitate such floristics have favoured production pursuits of plantations. Though ecological factors have facilitated large-scale monocultural production and in the process emerging altered in their character, the productive pursuits of plantations provide a significant basis for understanding resource identities of plantations.

Plantations partake in a capitalist enterprise entailing the production of a single cash crop, historically coffee and cinchona but contemporarily and predominantly tea, for large-scale domicile and export markets. Production is organized on a corporate basis, involving salaried administrators especially in plantations belonging to larger business and industrial concerns as HLL, Birla and EID Parry, and employ wage labour skilled in harvesting tea crop, such labour being permanent or contractual. Seasonal labour,\[7\text{ Working Plan Gudalur Forest Division, 1998 to 2008, (11); Sketch Showing The Location Of Jenmnam Lands Including 11Major Estates in Gudalur and Pandalur Taluk, Nilgiri District, Gudalur Jenmnam Lands, Notes For Discussion, TN govt. (2001).} \]
usually locality based is also hired depending on harvests. Plantations in Gudalur are constitutive of a regional economy founded upon tea trade and are an important source of work and wage for a labour force of 14,470 workers. In Gudalur the area under perennial crops comprises 55.7 percent of net cultivated area that forms 37 percent of total geographical area. The processes and pursuits entailed in mono-crop production deem the enterprise ecologically unsustainable. The historical conversion of 19,644 acres of forests into plantations and the contemporary increase of 6113 acres, disproportionately visible in estates with larger tracts of private forests, while involving the conversion of tropical and bio-diverse vegetation into mono-crop species, also remains environmentally detrimental in its monocultural characteristic.

The latter is a consequence of cash crop production being subject to both economic and ecological dictates. While economic contingencies such as market demand and supply, require proper management of crop cycles and harvests, ecological vulnerabilities of large-scale cultivation of a single crop species such as tea requires increasing utilization of pesticides and fertilizers. Consistency in height is maintained to manage harvests and the production of fresh leaf depends on periodical pruning and constant tending to moisture and nutrient content of soil, any deficiency in which, necessitating the use of fertilizers which increases over time. Resource use of plantations is thus characterised by the permanent conversion of natural vegetation into monoculture and the increasing use of pesticides and fertilizers to sustain and increase monocultural production.

Office of the Inspector of Plantations, Gudalur (1-3-2002). The remaining sources of estate labour are other plantations, registered and unregistered, of which there exist 202 including the 11 large leases.

The colonial and contemporary unsustainability of the planters’ pursuits notwithstanding, the reasons for conflicts are more forthcoming in the delineation of the legal status of private forests and the legal privileges of plantations over private forests. These legal regimes provide plantations with their idiosyncratic spatial identities, clarify resource use and remain fundamental to their participation in conflicts with the state.

4.3.1.3 Legal Identities of Plantations: Forest Leases, Lessors and Lessees.

Resource use in private forests cannot be explained exclusively in terms of ecological facilitation of production for the market or in terms of the capitalist interests of plantations as evident in the expansion of their productive base for profit. The modes of resource use in this instance are both enabled and constrained by the legal characteristics of private forests and the legal identities of plantations. Plantations do not possess a permanent or definite tenure over their estates but are leases created since the latter half of the 19th century by the Nilambur Kovilagam and the Nelliyalam Raja. These Jannies leased forest lands to individual planters and plantation companies for cultivation of coffee, tea, rubber, chincona and cardamom. There exist currently, 90 leases created through the execution of 143 lease documents and covering an expanse of 50,300 acres of land. The following table classifies major plantation leases according to respective lessors, character of lease in terms of developed or natural vegetation, extents of lease, and the validity of lease.

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Note on the Issues relating to the Gudalur Jannam Lands, Revenue Department, pp 9, 2002.

Notes on the Gudalur Jannam Act, 1969 and Settlement of Section-17 Lands in Gudalur, Jannam Files- (henceforth JF), undated, Record Room, District Collectorate, Nilgiris, (henceforth NRR). Notes
<table>
<thead>
<tr>
<th>Name of Lease, Lessor, Village of Lease, Vegetative Characteristics</th>
</tr>
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<tbody>
<tr>
<td><strong>of Lease</strong></td>
</tr>
<tr>
<td>Sabrar</td>
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<tr>
<td>te Estate</td>
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<tr>
<td>satham</td>
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<td>Such</td>
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<td>ayalam</td>
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<td>a Estate</td>
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<td>ienroek</td>
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<td>olvert Land</td>
</tr>
</tbody>
</table>

Of a total leased extent of 50,300 acres of forests, about 42,000 acres contemporarily constitute the leases of nine major plantation lessees. Large forested tracts and extents on the Gudalur Jarnam Estates Act. 1909; Commissioner of Survey and Settlement, Chennai (2002, 7-8). The figures are extents perambulated during the Jarnam abolition in the early 1970s.
are characteristic of plantations with the bigger leases such as the Manjushree, Glenrock and Tea Estate India Ltd. 'Undeveloped' forests, grassland and savannah formed the greater proportion of plantations, except in leases such as Sussex and Harrisons Malayalam where the ratio remained in favour of developed or planted portions. With more than three-fourths or 19,675 acres of the O'Valley village constituting its lease, the Manjushree plantations remains the largest lessee, which in proportionate terms possesses nearly half the area of private forests in Gudalur. Ensuing in order of higher private forest possession are the Hindustan Lever with 4,489 acres and Glenrock with 1,560 acres. Among large leases except for those occurring in Nellialam such as the Glenrock estate and the Cooperative Wholesale Society, which were leased by the Nellialam family, the remaining plantations are the leases of the Nilambur Kovilagam. With a consolidated holding of nearly 67,000 acres of landed estate the Kovilagam is the largest forest lessor\textsuperscript{11}. Plantations in the Cherumulli, Devala, Gudalur, Padanthara and O'Valley 'desams' viz. villages, constitute the Nambalakod 'ansam' viz. a parish or aggregate of villages, of the Kovilagam and are, thus, leases created by its members. As on 1979 the Kovilagam had created 36 leases over an extent of 27,495 acres of forests.\textsuperscript{12} Unlike other jummam villages of which plantation leases only form part of, the O'Valley village comprising 103.34 square kilometers or approximately 25,441 acres is virtually under leasehold.

\textsuperscript{11}Implementation of the Act 24/69, and Revenue follow up work in the Nidgirir District (For the Period upto 30.4.82,Branch Settlement Office-Gudalur), IF, NRR. The states estimates contrast those furnished by the Kovilagam, which stated claims over a landed extent of 49026 acres.

\textsuperscript{12} Affidavit, T.N. Sankara Varman Thirumalpat, Joint Receiver of Nilambur Kovilagam Forests and Petitioner, in W.P. No. 5470 of 1979, 8 leases were created in Gudalur, 6 each in Devala and Padanthara, 7 in Cherumulli and 9 in O'Valley. The Kovilagam's claim of having leased 27,495 is a conservative estimate as official estimates suggest otherwise. The number of leases has however changed due to consolidation and fragmentation.
Apart from leasing vast forested tracts to plantation companies, jammies also created about 82 smaller leases to an extent of 7889 acres. Among prevailing minor forest leases, a majority were created in the Gudalur and Nelliyyalam villages, followed by Devala. Out of 82 leases, 71 occur in the three villages, of which those created in Gudalur and Devala are by the members of the Kovilagam. Forests in Nelliyyalam were leased to planters by both the Rani and the Kovilagam. In terms of extent, the leases created by the Kovilagam in O’Valley remain the largest among minor leases, followed by those in Cherumulli and Padanthara.

4.3.1.4 Lease Durations

Leases of varied duration and extents were created by legally documented indentures and contracts between members of the Kovilagam, the Nelliyyalam family and colonial planters. The duration of leases were numerically ordered in increasing sequences of 12, 24, 48 and 96 years with many leases created for 12 years at the end of which they stood renewed. Forests were leased monthly at amounts that ranged from Rs.2 to 6 per acre for developed lands and 10 paise to Rs.10 per acre for undeveloped forest lands. Perpetual leases were also created for 96 to 99 years and commuted at annual rates. The lease regime was established in the 1840s when forests were leased by the Kovilagam to the Manjushree’s predecessor plantation enterprise, the O’Valley trust and its pioneering estate ventures specifically that which was to be called the Lauriston estate, ‘under such grant of perpetual lease’ and for a sum of Rs 1500 and a jammabougam of Rs. 20. The trust opened up 14 estates and also sold estates such as the Seafirth, which presently constitutes the landed interest of the Non such estates.

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11 Document copies pertaining to jammam leases, 1880 to 1930; JF, NRR.
14 Madras District Gazetteers, The Nilgiris, Francis, 1908, Madras.
The Periaswola estate, initially a sub lease, was formalized in 1881 with a 187 acre perpetual lease for 96 years, and has since acquired other leases. Smaller plantation ventures of 20 to 30 acres in O'Valley were leased for 96 years and renewed every 12 years and lease amounts fixed at Rs.100 annually. Among leases granted by jammie's in Nelliatam, since the coffee industry's ascent in the mid 1860s, are the Glenrock estate and Cooperative Wholesale Society's colonial counterparts, the Indian Glenrock (Wynaad) Company ltd and the English and Scottish joint Cooperative Wholesale society, respectively. Floated as a mining endeavor in the mid 1800s and as part of its continued prospecting in the early 20th century, the Glenrock estate in an indenture with the Rani in 1906 had her 'demise and confirm into' it, planted and jungle tracts totaling 3151 acres for a lease of 36 years at an annual rent of Rs. 200. Earlier in 1882 and by reason of merger the company came to possess a leased extent of 4200 acres. Portions, planted and forested, of the Glenrock enterprise were 'demised' in an indenture during 1945 to the English and Scottish joint Cooperative Wholesale Society. Estates that were leased from the Kovilagam during the 1860s and early 1900s such as Thompson's Clearings and the Davera Shola, respectively, the latter entailing a 2215 acre lease, constitute the Tea Estates India limited. The Malayalam plantations whose leases include the Wentworth estate in Cherangode and Mayfield estate in Cherumulli were originally acquisitions by the East India Tea and Produce Company formed in 1907. As on 2003 all major and minor leases created by the jammies have expired except in the instance of Woodbriar and Parry Agro, which

17 Copy of Document No. 574/1882, Vol. 25, 120.
18 Francis, 1908, The Nilgiris, Madras District Gazetteers, Madras
19 Copy of Document No. 12/1906, Vol. 19, pp. 76-78, IF, NRR
expire in 2007 and 2009, respectively. Among minor leases, two expire in 2009 and one in 2014.38

4.3.1.5 Lease Clauses, Forest Privileges and Rights.

Apart from stipulating the temporalities of tenure, jannam’s also sought to regulate, or facilitate as the instance entailed, lessees’ use of physical space. Planters’ extraction of floral, faunal and mineral resources in the manner of felling trees, hunting elephants and detaching tusks, and mining, was regulated through conditions and clauses incorporated into lease agreements. However such clauses varied according to the jannam involved, the economic nature of the plantation venture for which the lease was sought, prevalent legal circumstances, and various historical phases such as coffee and gold speculation or colonial and post-colonial rule, through which the lease regime prevailed. Early lessees who procured perpetual leases were allowed to alienate their forests. Thus James Ochterlony who leased land in perpetuity from the Raja of Nilambur in 1846, had admitted ‘to partners in cultivating with coffee or other produce a portion of four hundred acres to be called the Lauriston estate’.22

Transgression of lease stipulations were legally acted upon by Jannam’s, where for instance the Nilambur Raja filed a suit in the court of the judicial commissioner of the Nizgiris against a planter and others to whom he alienated portions of nearly 1500 acres of forests which had been leased from the Raja in 1879. Portions of the alienated lease were taken up for coffee cultivation and a coffee estate opened and called the Periashola to which partnership the original lessee disposed his interest and granted

38Note on Gudahur Jannam Lands, 16-8-2002, Special Commissioner and Director of Survey and Settlement, Chennai.

22 Copy of Document No. 236 1883, dt 7-5-1883, Vol 29, pp 100. JF: NRR
one hundred acres of forests. However after a compromise in 1881 over the
ejecution suit, the raja demised to the proprietors of Periasohla, his rights of
pasturage and all other rights, liberties and privileges. The forfeiture of forest rights is
also evident in large leases granted during 1900s by Nellialam jammie's. In her
indenture with the Glenrock (Wynaad) Company ltd, which was during 1906
conducting a further systematic examination of the old native and other' gold
workings on the Glenrock property the rani demised for coffee and other
cultivation, 'forests and other trees, timber wood and jungle' and permitted lessees or
their authorized representatives to 'cut, fell, top, convert and carry timber wood and
jungle and to sell the same at all times during the term' and also granted the liberty to
'kill' or 'capture' all game including elephants. Privileges were also selectively
stipulated as in 1925 when the Nilambur Raja in an indenture with the Malayalam
plantations restricted elephant hunting except during emergencies and reserved rights
over ivory. Felling of trees of all descriptions through the period of the lease was
granted with the exception of teakwood, rosewood and ayini over which the raja
assumed the liberty to 'mark, cut down and fell in whole or part' albeit with the
consent of the lessee while making good any damage to cultivation. The Nellialam
family, unlike the Kovilagam members, continued to be liberal in their leases. In their
lease to the English and Scottish Joint Cooperative Wholesale Society in 1945, the
Nellialam Arasu and Rani leased for the cultivation of coffee and other products 'all
forests, other trees, timber wood and jungle which were there or which should during
the term thereby granted grow' and granted the lessee and its assigns the right 'to cut,

NRR
2 Francis, The Nilgiris, 1908, pp. 19
3 Copy of Document No 12/1906, Vol. No 19, pp. 76-78, JF. NRR.
4 Document, No. 53/1925, Copies of Lease Documents relating to plantations taken from the sub
Registrars office, Gudalur and Ooty for the period from 1881 to 1930; JF. NRR.
fell, top, convert and carry the said trees and timber wood' and 'to sell the same at all times'. Terms decreased in stringency and revealed interests of individual jannic's in leases created after the Kovilagam's partition in 1951, which eased the charter of forests. In a 1961 indenture over a small lease of 17 acres to a Madras based planter, a Kovilagam member to whose individual share the leased portion appertained by way of 'deed of partition effected in the Thavazhi' in April 1961, restricted hunting elephants, reserved ivory rights, but permitted felling and removal of 'all or any timber of any description' for cultivation, provided the felling is not for trade and also provided that felled timber 'not beneficially required by the lessee for building and other improvements' 'shall belong to and deemed the sole and absolute property of the lessor'.

The jannics' thus incorporated clauses in lease agreements, which denied lessees the right to extract species such as teak, rosewood and aiyni, which right the jannies reserved for themselves, or reserved the right over felled timber not required by the lessee. However as the lease regime progressed, lessees were at liberty to cut and remove existing trees as well as the new ones that may grow during the lease. Albeit the Madras Presidency's enactment of the Madras Preservation of Private Forest Act (MPPF) of 1949 which sought to control the leasing of forests by jannics and the exercise by plantation lessees of forest privileges granted by jannics, jannies continued to lease forests and planters sought and obtained official felling permits. Thus in 1962 the district collector permitted, under the MPPF Act, a member of the Kovilagam to lease 66.88 acres' in Padanthara to another member. In a subsequent

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27 Document No. 50/1945: JF, NRR.
4.4.1 Agrarian Legislation, Litigation and Legal Ambiguity

Statization through agrarian legislation has been resisted by litigation. Contended discrepancies in the legislation have through litigative initiatives led to a legal ambiguity, which phenomenon also derives character from delays in litigation. There, hence, remains a direct association between statization of their leases through legislation and legal action by planters. Litigation has resulted in a prolonged three decadal delay for the state to proceed upon plantations’ legal rights albeit in terms of regularization rather than termination or restriction of lease as was intended in the legislation. Attempts, in the interim, by plantations to establish access and control over undeveloped forest-lands through expansion, and also by landless and migrant peasants and vested interests through encroachments, is contemporarily the substance of contention between plantations and the state. Planter-state dispute, pending the latter’s settlement of the former’s rights, requires chronological location given the existence of original terms of discord, and legal, ecological and social changes which having ensued since, have altered ambiguously these very terms.

4.4.2 The Janmam Act and Sections 8, 9 and 17.

All plantations, except the Silver Cloud and Glenrock, were subject to the legal reordering by the state of their leases as ‘section 17’ lands. The two plantations in question by virtue of having purchased janmam rights prior to the Act find their rights resembling those stated in section 8 of the Act, which stipulates the jammie’s entitlement to rytowari patta. Section 17 plantations seek eligibility as section 9 lands and claim patta as tenants. The P.A.T. in its representative capacity has put forward similar demands. While section 17 plantations primarily engage the state over the
status of the cultivated extents of their leases and also negotiate for 20 to 30 percentage of 'unplanted' forest lands or an equivalent monetary compensation', section-8 plantations expressly engage the state over forests also. According to the Silver Cloud estate 'the government will definitely give patta for planted area, but the plantation is lighting for the forests also'. Along with nine other 'section 17' plantations, 'section 8' plantations have legally joined issue with the state over its rearrangement of their tenure.

4.4.3 Writ Petitions and Appeals

Prior to the notification of the 'appointed day' as stipulated in the Act and on which day the Act would have come into force and proceedings, albeit detrimental, initiated, 8 major plantation lessees along with the Nilambur Kovilagam sought judicial intervention by filing writ petitions in the Madras High court during 1970. The contents of writ petitions and subsequent affidavits varied according to the petitioner. The Kovilagam's plea to the High court entailed the forbearing of the state of Tamil Nadu from enforcing provisions of the Act 24 of 1969 that allowed for the statization of their properties including forests, teak plantations and wastelands. Petitions by plantations and affidavits filed therewith, sought judicial directions to the Tamil Nadu government to abstain from statizing cultivated trees, forests, planted and waste land. More commonly all petitioners sought directions from the court to restrain the state from taking possession of accounts, registers, maps, plans and other documents and in interfering in any manner in their possession of respective lands. The petitions were considered by the high court in their judgment as raising a 'common question' of the jumam estates having forfeited their character subsequent to the settlement in 1886.
had not been converted into ryotwari lands due to settlement and resettlement. Accordingly, the court held that the provisions of the Janmam Act are applicable to janmam lands in Gudalur and that the janmam right qualifies as an estate as stipulated in Article 31-A of the constitution.\textsuperscript{15}

Aggrieved by the High Court’s verdict, the nine petitioners filed appeals in the Supreme Court, while the Balmadies Plantations, a lessee of the Kovilagam\textsuperscript{16} preferred a Writ Petition\textsuperscript{17}. The petitioner pursued the conjecture of janmam estates having been converted into ryotwari estates and also questioned the ‘reformatory’ purpose, in the agrarian context, of the Act. While the petitioner, in its own devise, challenged the validity of the Act on the basis of its being violative of Articles 14, 19 and 31 and lacking the protection of Article 31-A, it also reciprocated certain arguments of the appellants. This shared contention related to an argument of the grant of rights of relinquishment to jannie’s making redundant the distinction between the janmam and ryotwari estates, and the questioning of the status of forests as constituting an estate ‘unless they are held or let for purposes of agriculture or for purposes ancillary thereto’ as contemplated in clauses that comprised Article 31-A. The forest question was, further, pursued by the appellants albeit in a differentiated submission that the acquisition of forests did not constitute an act of agrarian reform as it did not promote in any manner the objectives of the same. Judging upon the petitions and appeals the court in its common verdict in 1972, engaged at length with the legal and ecological and political aspects of the estate\textsuperscript{18}. The court delineated the

\textsuperscript{15} Judgment of the Madras High Court, 1971, in The Nilambur Kovilagam v The State of Tamil Nadu.

\textsuperscript{16} The Balmadies plantations, situated in the O’Valley village had leased 170.78 hectares from the Kovilagam. The petition was filed by a shareholder Dayanand Bansilal Saxena. The role of the plantation as a conflict actor is relevant exclusively to this juncture of conflict.

\textsuperscript{17} C.A. Nos. 2211/70, 2212/70, 85-91 of 1971: W.P. 373/1970

\textsuperscript{18} Balmadies Plantations Ltd v. State of Tamil Nadu, 19-4-1972, AIR, 1972, Supreme Court, 2240.
ryotwari tenure, and reviewed the 1886 settlement and 1926 resettlement. Citing legal precedent that set aside colonial state’s attempt to establish direct contact with cultivators in escheated lands without notice to the jannami, the court considered the reclassification of ‘government jannam’ and ‘private jannam’ as ‘new’ and ‘old’ holdings respectively. This reclassification according to it was ‘merely a change in nomenclature’ and an attempt to retain jannam estates and did not have the effect of extinguishing jannam rights. Relinquishment, it was interpreted, did not entail any separate surrender of jannam lands but also of his rights in the event of a jannami renouncing his estate, and in the present instance any relinquishment and conversion into ryotwari would make redundant the legislature’s assumption of jannam rights to exist as evident in the constitutional inclusion of jannam rights in the state of Madras. Considering the petitioner-appellants contention that forests do not comprise an estate, the court deemed it ‘devoid of force’ as the constitutional definition of a jannam ‘estate’ was inclusive of forests whose purported agricultural or ancillary custody did not require clarification. While expressing its inability to address the petitioner’s attributal of a vested interest to the state’s enactment of agrarian legislation in that the Act’s purported objective was not agrarian reform, the court reasoned as well founded the appellant’s submission that the acquisition of forests did not fit the objective of agrarian reform. The absence in the Act, of any professed purpose to which the state would subject forests to, made their acquisition deficient as agrarian reform. The court held, ‘there is no material on record to indicate that the transfer of forests from the jannami to the Government is linked in any way with a scheme of agrarian reform or betterment of village economy’.

Ibid, para. 18. The state resisted the court’s contention by alluding to the negation, in 1967, of objections by a Zamindar in Uttar Pradesh to the statization of forests in his estate (viz. The State of Uttar Pradesh v. Raja Anand Brahna Shah, 1967). This defense by the state, entailing recourse to legal

Contradictory proceedings initiated by the state, during the legal hiatus of nearly four years, through the issue of notice under the Tamil Nadu Land Reforms Act provided petitioners with the legal space to re-contest the Janmam Act. Proceedings pertaining to the determination of ceiling of the landed estates of jannie’s and lessees was initiated by the government. The jannie’s and plantation lessees petitioned the Madras High court on the applicability of the Act during 1974 and 1975. According to the petitioners, the Land Reforms Act was exclusively applicable and that, initially, they be dealt with and compensated under its provisions. The contention of the petitioners is summarily evident in the affidavit filed by the receiver-jannie’s of the Nilambur Kovilagam forests. According to the petitioner the Kovilagam had through the appointed receivers benefited from the auctioning of forest products and sale of timber, the latter with the forest department’s permit, till the collector issued notice, which was ‘received by the Receivers on 26-11-1974 under protest’. The petitioner contended that provisions of the Ceiling Act were applicable to the forests held by the Kovilagam and compensation be worked out according to principles of the Act. Hill areas, till then exempted under section 73 of the Land Ceiling Act, through an amendment in 1972 stood included and those persons affected due to technicalities that arose from the said amendments were required to furnish returns to the authorities. The petitioner made ‘statutory returns’. With both the Janmam and Ceiling Acts awaiting notification and also containing provisions that had the ‘effect

44 Ibid, pp.3-4, para. 5.12.
overriding all other laws*, as on and after 1-7-1972 two laws stood applicable to Gudalur. The petitioner further contended that albeit both the laws entailing agrarian reform, the operative principles were inconsistent in comparison, and having the option of notifying either of the legislations, the state notified the Ceiling Act as on 1-8-1972. The state’s action of notifying the Ceiling Act has the effect under section 4 of the said Act of excluding the possibility of operationalizing the Janmam Act. The Tamil Nadu state, according to the petitioner, should be restrained from applying the Janmam Act to the Kovilagam’s forests but acquire surplus lands under the Ceiling Act while recognizing the Kovilagam’s rights over lands allowed under the Act, cease intervention in the ‘ownership, possession, and enjoyment of plantations and ‘compensate for trees at market values’*. The Madras High court, pending disposal, issued an injunction against the state from interfering with the possession or normal working by the petitioners of their lands. In its common judgment, a year and a half later, the court disposed the petitions citing difference in criterion, whereby, while the Ceiling Act was intended to acquire lands exceeding the fixed ceiling, the Janmam Act was intended as an acquisition of the whole estate. This verdict was also complemented by the legal technicality of vesting of the estate under the Janmam Act being complete, while vesting under the Ceiling Act remaining incomplete, pending notification*.

* Ibid., pp. 6-7, para. 18-24.
* Madras High Court, Order Dt. 23-9-1976.
* As per the Ceiling Act, vesting is complete through notification of Sec 18(3) of the Act and provisions stated therein.

Against the verdict, the petitioners filed Civil Appeals and Writ petitions in the Supreme Court during 1976-1977. While the proprietors of the Silver Cloud and Glenrock estates went on appeal in 1976, the other plantations followed suit in 1977 subsequent to the court staying the high court orders on November 6th, 1976, pending inquiry. Apart from appeals against the lower court's orders, the appellants also petitioned the court on the constitutionality of the Janmam Act’s inclusion in the 9th Schedule. The Act, petitioners contended, was open to challenge despite its inclusion to the 9th schedule. Additional issues emerged during course of litigation, which according to both the petitioner-appellants and the respondent-state, entailed questions of constitutional validity. Thus the petitioners disputed the discrepancies evident in jannic’s getting ryotwari patta under section 8 for cultivating plantation crops even as lessees are denied patta for similar cultivation under section 17. As the right to equality is considered a basic structure of the constitution, the Janmam Act’s inclusion to the 9th schedule could still be invalid. The petitioners' counsel alluded to the mentioned and other such inequalities and claimed that the issue involved substantial questions of law pertaining to interpretations of the constitution. The state also assented to the need of assessing the constitutional validity, given the necessity of a correct interpretation of the provisions contained in sections 8, 9 and 17 of the Janmam Act.

**Note:**
Subsequently in its order dated 21-8-1978, the court confirmed stay orders and stipulated certain conditions to each plantation-petitioner that were to operate till the disposal of the Writ Petitions. Accordingly, the petitioners undertook not to remove dead and wind-fallen trees without prior permission from the District Forest Officer and 'maintain complete and correct accounts of all trees of wood or timber transported or removed from the estate and to comply with the Timber and Transport rules'. Secondly, plantation-petitioners were required, with respect to felling after the appointed day of 27-11-1974, to deposit all realization of sale in a separate bank account and furnish returns every month to the collector of the Nilgiris. Finally the petitioners undertook not to alienate any part of their leases through sale or mortgage.

The court, however, allowed settlement authorities to survey and delineate plans of petitioner's properties with a caveat of not passing final orders under the Janmam Act.\(^\text{22}\)

The Court, in a common judgment in 1989 after a decade long hiatus, which it noted was among other factors a consequence of an absence of a rational interpretation of the provisions of the Janmam Act, reiterated that the litigation involved a substantial question of law in as much forests are concerned. According to the Court, the deemed unconstitutionality of the Act in its pertinence to forests, remained the impetus for its inclusion to the 9\(^{th}\) Schedule. The persistence of Section 3 despite its declared unconstitutionality, in the Court's opinion, entailed 'a substantial question of law pertaining to interpretation of the Constitution' and required the posting of the litigation before a five judge bench.\(^{23}\) The bench, a decade later in 1999, on the plea of all planter-petitioners except Silver Cloud and Glenrock estates, allowed for the

\(^{22}\) Note on the Tamil Nadu Guadalur Janmam Estates (Abolition And Conversion Into Ryotwari Act. 2001, CTSS, Chennai.

\(^{23}\) Judgment in, Manjushree Plantation Ltd. Versus State Of Tamil Nadu and Others. 17\(^{th}\) February 1989.
withdrawal of petitions. The bench also allowed the petitioners to pursue their application for ryotwari patta under section 9\(^54\) and also gave petitioners the benefit of challenging any adverse order passed by the state Government, either under section 9 or 17, through appropriate proceedings for which initiation the state was required to give notice of 12 weeks. The appeals and petition of the Silver Cloud and Glenrock estates, given their potential and disputed status as section 8 lands,\(^55\) were referred to a 9 judge bench as the question of constitutional validity of the inclusion of the Janmam Act to the 9th schedule, persisted.

4.4.7 Legal Ambiguity, Landed Anomaly and Ambivalent Control

The three decadal litigation commencing 1969 till 1999, has been characterized by a legal ambiguity that arises from discrepancies and delays in the Janmam Act. Legal ambiguity has also latently fostered a landed anomaly characterised by ecological change and the emergence of new land use patterns as distinct from plantation cropping. With a legally tenuous status, private forests have also emerged as realms of ambivalent control with both the state and planters unable to or abstaining from exercising power in any absolute or conclusive manner. Such ambivalence has also had the effect of plantations using it to their advantage by expanding cultivation, and the forest and revenue departments remaining both indifferent to each others jurisdictions and indulgent in benefiting from the spoils of indetermination. The ambivalence has further allowed a motley constituency of encroachers, ranging from migrant and local peasants to property speculators and loggers, to create landed interests in private forests.

\(^54\) Viz. as a tenant. The planters initially applied for patta under section 9 on 26th May, 1975.
\(^55\) Lands in which the jami is entitled to ryotwari patta.
### Table - 3

**Difference in Developed (Planted) and Undeveloped (Forest) Area: 1974 - 2002**

<table>
<thead>
<tr>
<th>Year</th>
<th>Consolidated Area (acres)</th>
<th>Encroached Area (acres)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Developed (Plantation Crop)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Undeveloped (Forest &amp; Savannah)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>27-11-1974 (Date of Notification of Janmam Act)</td>
<td>19,644.19</td>
<td></td>
</tr>
<tr>
<td>22-10-2002 (Date of report upon completion of Perambulation)</td>
<td>25,757.81</td>
<td>10,927.66</td>
</tr>
<tr>
<td><strong>Total of increase in developed land,</strong> decrease in undeveloped forests, and encroachments.</td>
<td>6113.02</td>
<td>18,741.52</td>
</tr>
</tbody>
</table>

The area of 33,000 odd acres of 'undeveloped' forests lands, which existed as on 27-11-1974 when the Janmam Act was notified, according to a 2002 perambulation has reduced to 13,615 acres. Correspondingly, the developed area with plantation lessees has increased from around 19,700 acres in 1974 to 25,757 acres in 2002. Further, 10,928 acres have been cleared and cultivated by encroachers, of whom 6426 were identified in the survey. Encroachments and deforestation are also contingent upon the spatial and legal characteristics of plantation leases. While deforestation is common to all plantations given their expansion of cultivation, as a consequence of encroachments it has occurred primarily in section 17 rather than section 8 plantations. Amidst section 17 lands, encroachments and deforestation are more

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*Survey of encroachments-Perambulation of Gudalur Janmam lands, Re:Ad.No.12185 2002, Dt.22-10-2002, Settlement Officer (henceforth S.O), Gudalur Janmam lands, Ooty to to Spl. Commissioner and Director of Survey and Settlement (henceforth SCDSS), Chennai. The stated increase in cultivated area and decrease in forests is inclusive of smaller plantation leases.*
prevalent in larger leases of Manjushree in O'Valley and HLL in Devarshola. Contemporary felling in leases is evident in a 2002 survey of plantations in Tamil Nadu directed by the Supreme Court which was acting upon a contempt petition filed by the Divisional Forest Officer in 2001 against the Glenrock estate for their violation of the Court's interim directions in 1996 banning felling in the country\textsuperscript{57}. 4604 trees were stump-counted to have been felled by the 11 major plantation lessees over a period of 15 years.

4.4.8 Deforestation and Encroachments in Section 8 Forests

Despite being in possession, as on 1974, of forested tracts of 3560 and 1478 acres, respectively, the Glenrock and Silver Cloud estates have not experienced large-scale occupation of their forests by migrant peasants and prospectors though deforestation is manifest. Deforestation in Glenrock and Silver Cloud, as evident in offence registers and comparisons of landed extents during 1974 and 2002, are attributed by the managements to outside groups. The following table registers felling and felling offences since 1996\textsuperscript{58}.

\textsuperscript{57} Contempt Petition No. 193 of 2001.
\textsuperscript{58} Annexure, Contempt Petition No. 193/2001 in W P. No. 202/95. Of the total of 1667 trees felled till 2002 in Glenrock, 972 trees have been felled since 1974-1975. The table contains offences registered with respect to 282 trees only, given the failure of the forest department to notice and book felling. Felling offences coincide with the survey number 1493 that has been 'sold'.
### Table - 4

**Deforestation Extent in Section - 8 Plantations**

<table>
<thead>
<tr>
<th>Sl.No</th>
<th>Plantation</th>
<th>Village-Field/Survey Nos./ Extent (acres)</th>
<th>Deforestation (Tree Count)</th>
<th>Age of felling (Years)</th>
<th>Offence Details (O.R. Nos.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Glenrock</td>
<td>-do-/ INo./1954.84 ac</td>
<td>1667</td>
<td>1 to 20/ 1978-2002</td>
<td>21</td>
</tr>
<tr>
<td>2.</td>
<td>Silver Cloud</td>
<td>Gudalur/12 Nos./ 129.30 ac.</td>
<td>89</td>
<td>1 to 7/ 1995-2002</td>
<td>15</td>
</tr>
</tbody>
</table>

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<td></td>
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</tbody>
</table>

The disproportion between number of trees felled in Glenrock and offences filed is admitted by the state as failure to detect felling. Glenrock currently attributes deforestation to its ‘legal’ felling of trees and illegal felling by tribals, timber smugglers and employees. ‘Legal felling’ remains a facet the estate has taken recourse to, as is evident in their affidavit in 1975 where the estate contested the denial of ‘Timber and Transport’ permits by the forest officer, on the premise of such permits formerly being issued on its application ‘and in the normal course’

\textsuperscript{1} The estate, in a demeanor reflective of the landed ambivalence, cites the difficulties of supervising large tracts, which responsibility, it claims, can be appropriately undertaken by the forest department\textsuperscript{2}. The Silver Cloud, which claims to preserve its forests by employing watchers and reporting felling to the forest department, attributes deforestation to timber thefts by armed miscreants from Kerala and within Gudalur who in connivance with forest department subordinates, fell schedule timber such as sandalwood as was witnessed during late 1980s and early 1990s. The management


\textsuperscript{2} Plea of respondents/contentions in Contempt Petition No. 193 of 2001.
suggests the organised nature of timber extraction, by hinting of a contingency of the
timber mafia beginning to 'operate' on the estimated 2500 standing rosewood trees.
While Silver Cloud presently claims a developed area of 1400 acres and undeveloped
area of 300 acres, the vast difference with 1974 estimates insinuate the plantation's
role in felling despite its charge of organised timber extraction. While offence
registers seem to confirm Silver Cloud's claims of 'vigilance', they indict Glenrock of
large-scale indulgence in felling. What the state has recorded as encroachment
offences in their plantations are alienation of forest-lands by Glenrock and the Silver
cloud's initiatives to stem isolated attempts of occupation or preempt perceived
attempts. Thus in Glenrock, '10 encroachments', measuring about 52 hectares as
identified in encroachment reports filed in 2000 are portions sold by the management
to 'encroachers', including a Tamil Muslim merchant and a Malayalee Hindu school
teacher from the neighboring Pandalur town, and a Syrian Christian contractor from
Erumad. The felling offences recorded, coincide with the alienated portions.

Encroachment cases filed in Silver Cloud are specifically those during 1992-3, against
speculative occupations subsequent to the demise of a proprietor, and more generally
those eviction suits filed against residents of Hallur village to 'curtail their activities'
and preempt 'mischief'. The absence of large-scale occupations by migrant and
local peasants and prospectors in Glenrock and Silver Cloud owes largely to the legal
status of the estates as section 8 lands entailing proprietary as a janmi. The apparent
vigilance that Silver Cloud maintains and Glenrock professedly finds impractical
perhaps due to the larger extent of the its lease, notwithstanding, large scale
encroachment and felling have effectively been restricted by these estates due to the

61 Interview with Silver Cloud.
62 Quarterly year ending 30-6-2000 eviction reports, and quarterly year ending 30-9-2000 Corrected
encroachment & eviction reports, Pandalur Range; Field notes (16-3-2002).
63 Interview with Silver Cloud.
legal status of their leases, which is less ambivalent than section 17 leases. This status
negates both the possibility of the state taking possession as with section 17 leases and
the subsequent contingency of regularizing encroachments. This awareness in the
region's public domain of section 8 lands not being section 17 lands has spared the
former's forests of fates suffered by major section 17 leases. Contraventions of this
'code' are rare acts of inability -and in instances, impudence- to clearly demarcate
between sections 8 and 17, which according to Silver Cloud, upon occasion, has lead
to attempts to encroach its forests.⁶⁴

4.4.9 Deforestation and Encroachments in Section 17 Forests

Despite the notification of private forests under the TNPPF Act of 1949 to prevent
indiscriminate timber extraction, and the 1978 undertaking by plantations, the legal
ambiguity created by the Janmam Act and the subsequent landed ambivalence has
restricted the jurisdiction of the TNPPF Act as litigation 'has paved the way for
unauthorized removal of timber'⁶⁵ and facilitated a shirking of their undertaking, by
plantations. According to the 2002 survey, 4604 trees were counted to have been
felled by the 11 major plantation lessees over a period of 15 years. The following
table presents felled tree counts, age and offence details in section 17 lands.⁶⁶

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⁶⁴ Ibid. Contraventions of the code by Chettis of Hallur village that comprises Silver Cloud's lease, could however be acts of custom.
⁶⁶ Survey of illegal felling in plantations ordered by the Supreme Court in Contempt Petition No. 193 of 2001.
Table - 5
Felling Estimates, and Offence Registry:2002 Survey and Stump Count

<table>
<thead>
<tr>
<th>Sl. No</th>
<th>Plantation</th>
<th>Village/field/Survey Nos./Extent(acres)</th>
<th>Deforestation (Tree Count)</th>
<th>Age of felling (Years)</th>
<th>Offence Details (O.R. Nos.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Malayalam&amp; Mayfield</td>
<td>Cherangode &amp; Nellakota/6&amp;1Nos./503&amp;40 ac</td>
<td>69&amp;9 =78</td>
<td>1 to 6/1977-2002</td>
<td>2</td>
</tr>
<tr>
<td>2</td>
<td>Sussex&amp;Woodbriar</td>
<td>Nellakotta &amp; Devarshola/1&amp;1Nos./159 &amp; 189.69 ac</td>
<td>1115</td>
<td>½ to 7/1995-2003</td>
<td>204</td>
</tr>
<tr>
<td>3</td>
<td>Manjushree</td>
<td>O'Valley/1Nos./7891.65ac.</td>
<td>410</td>
<td>1 to 7/1995-2002</td>
<td>29</td>
</tr>
<tr>
<td>4</td>
<td>Perrasinha Ltd.</td>
<td>O'Valley/4Nos./246.46 ac.</td>
<td>275</td>
<td>1 to 7/1995-2002</td>
<td>18</td>
</tr>
<tr>
<td>5</td>
<td>Mahavir(Non such)</td>
<td>Yelliamalar/11Nos/1019.84 ac.</td>
<td>412</td>
<td>1 to 7/1995-2002</td>
<td>36</td>
</tr>
<tr>
<td>6</td>
<td>HIL.</td>
<td>Devarshola/11Nos/1816.97 ac.</td>
<td>54</td>
<td>Not Available</td>
<td>N.A.</td>
</tr>
<tr>
<td>7</td>
<td>Parry Agro</td>
<td>Caroline &amp; Athikamma/1Nos./122.24 ac.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>Rowsdornmalaie</td>
<td>Devala/1Nos./325 ac.</td>
<td>269</td>
<td>1 to 15/1987-2002</td>
<td>N.A.</td>
</tr>
</tbody>
</table>

Manjushree and HIL have experienced higher rates of deforestation than other leases, as is evident in the table, largely due to the fact that these plantations have larger leases and consequently an higher incidence of encroachments. However their earlier excesses in timber extraction does not find clarification in the tableau which otherwise plausibly points to the involvement of other plantations in extraction. Excluding Manjushree and HIL, other lessees cannot justifiably argue or prove any substantial
involvement of encroachers in the denudation of their forests. While the 2002 survey and stump count intended to estimate post 1996 felling and in the process counted pre-1996 'unnoticed' and 'uninformed' felling, specifically in the relatively smaller section 17 tracts of Mayfield, EID Parry and Rousdan Mallai, an earlier report based on a 1999 perambulation provides insights into such furtive forest activity. The perambulation of 8 estates revealed a 'shrinkage of land under the undeveloped land category', and in clear violation of the Supreme Court orders of 1977, estates like Rousdan Mullai, Peria Shola, and Co-operative Wholesale Society (EID Parry) had 'expanded their plantation by encroaching upon the undeveloped forest land'.

According to the Gudalur Forest Staff Association, the Peria Shola obtained a stay order in 1994 from the high court against the collectors orders and felled and cleared what was known as the 'Cathaline' forests while the District administration failed to vacate the stay. While the offences in 1994-5 attributed in the table to Peria Shola were recorded in a specific legal milieu involving litigation over timber felling permits, the offences attributed to Sussex during 1996-8, need to be understood in a similar legal context. The Peria Shola lease remains for the most part, alienated, with developed portions sold to a local Moplah who owns a saw mill and holds political office. Undeveloped portions have been alienated to a Moplah spice trading concern, a person of Tamil origins with a known vested interests in lands, and others. The higher scales of felling in leases in O'Valley, specifically during the period 1995 to 1997 are the consequences of large scale encroachments that coincided with the final phases of a decade old beneficial tea and spice market. Substantial felling in single

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61 Letter from Collector, Nilgiris, to Special Commissioner, Land Administration, Chennai, Re A5 No. 5761/99, dated, 4-5-1999. This report preceded the withdrawal of petitions by plantations in August 1999.
62 Affidavit filed in WP 202 of 1995 by the President of Gudalur unit of Tamilnadu Forest Staff Association, in the Supreme Court, 18 February, 1999.
63 Field notes (1-3-2002)
forest blocks and the failure of the forest department to book offences, as is evident in the Mayfield and Rousdan Mullai cases, also implicates the forest department. The disparate association between number of trees felled and offences booked is a consequence of ambivalence, which condition has fostered indifference and indulgence by the state and planters. The forest department fails to ‘notice’ felling as protection staff do not ‘patrol section 17 lands controlled by estates’ and detect ‘clandestine activity’ and even in the event of detection are ‘too timid and indifferent to make enquiries’ and ‘when asked’ claim that ‘estates are developing only their patta lands’, which fact implies an ignorance of boundaries. This official perception, though plausible, fails to note the indulgence of protection staff by seeking monetary gratification and shirking responsibility. The failure of plantations to report felling betrays their involvement, their calculated unconcern over outside involvement in felling and their avoidance of being held accountable for felling. The 1999 report indicates that Manjushree increased its planted area from 3673.73 to 1977.80 acres during 1977 to 1997, resulting in an increase of 1304.77 acres. The HLL lease expanded its developed portions from 1490 acres in 1977 to 3844.08 acres in 1997-8, entailing a 20 year increase of 2353 acres. The PAT, denies this two decadal increase attributed to large lessees, by taking recourse to the ambiguity that prevailed from 1969 to 1974 when it was notified. According to the PAT, there was only a marginal increase during the hiatus, subject to the compliance of the provisions of the TNPPF Act. In a manner that insinuates the opportunistic predilection of plantations towards felling, clearing and expansion, the PAT cites the entitlement of plantations to, apart from their landed ceiling, 20 percent of extra land for future extension as was allowed in 1972 by the Land Reforms Act. According to the PAT, with the

20 R.R. Working plan 2, 1-4-1998 to 31-3-2008, pp. 44.
Janmam Act subject to legal scrutiny, any extension within the 'parameters' of the Land Reforms Act, 'will not be encroachment or a clandestine Act'. This denial by the association of lessee involvement in felling and encroaching, is complemented by their depiction as 'victims' of outside encroachments, which despite the initiation of civil, eviction and criminal suits, continue due to the state's indifference evident in the 'specious plea that lands are covered by section 17 and that it is for the lessees to protect their leases'. According to the association, the failure of the forest, revenue and police authorities to prevent encroachments or evict, makes protection impossible. This view is also individually held by plantations albeit in the context of landed ambivalence and legal ambiguity. Thus, the H.L.L alludes to the undecided status of lands of belonging neither to the plantation nor to the government and the Silver Cloud, despite being a section 8 plantation, claims that the 'ambiguity of section 17 lands is what leads to problems'. Manjushree, more directly, alleges the indifference and non cooperation of the revenue department. In the contrary, the district administration, as evident in its communiqués to the Chief Secretary and the Special Commissioner during 1991 and 1999, respectively, took recourse to the fact of private forests remaining under the control and possession of plantations, pending operation of the court stay. Such situation was proving ecologically detrimental, and required 'expeditious' and 'early' disposal of cases. While the latter report held plantations responsible for expanding their cultivation, which plantations attributed to outside encroachments, the earlier report indicted plantations of indirectly encouraging these very encroachments with the 'oblique motive' of bringing denuded areas under 'tea-cover'. This was 'an ingenious way of getting over the statutory

72 Statement issued by the Secretary and Advisor, PAT, in The Hindu, November, 1999.
73 Interviews with Manjushree, H.L.L, Silver Cloud.
prevention of converting forest into plantation, under the Forest Conservation Act.\textsuperscript{74} The state, upon occasion also conveyed directly to plantations, its inability to protect forests that were ‘gradually shrinking’ under the custody of plantations\textsuperscript{75}. The indifference, which plantations and the PAT accuse the state of, is also attributed by the beleaguered latter to inadequate personnel, both forest and police, to protect vast tracts of private forests\textsuperscript{76}. Subsequently the PAT has also informed the state of its inability to protect private forests notified under the TNPPF Act due to lack of ‘manpower and authority’. Such belated acquiescence of the state and planters to the effects of landed ambivalence comes in the wake of a new phase of encroachments since 1999. Encroachments, are basically parasitical to the ambivalence as is acknowledged by plantations who are confronted by encroachers with claims of land belonging to the government\textsuperscript{77}, and also consequential, according to the forest department, to ambiguity as evident in delays in settlement process and procedure.\textsuperscript{78}

Encroachments and deforestation along with the expansive tendencies of plantations have created an anomalous landscape predominantly evident in the private forests of O’Valley and Padanthara.

\subsection*{4.4.10 Encroachments, Deforestation and the Anomalous Forests of O’Valley and Padanthorai.}

Both the 2002 survey and 1999 perambulation suggest large scale deforestation in Manjushree and HLL, which phenomenon requires understanding through a spatial


\textsuperscript{75}Minutes of meeting held between the state and planters in Theppakkadu on 31-8-1991 to discuss implementation of the Gudalur Janamam Abolition Act, pp.3. RC. A5/67646/91, Dt. 2-9-1991.

\textsuperscript{76}‘Strategy’ to protect janamam forests drawn out in Comprehensive Note for Discussion in the High Level Committee Meeting Convened By The Chief Secretary To Government, pp.10, 21-7-2001.

\textsuperscript{77}Interview with HLL and Silver Cloud.

\textsuperscript{78}Interview with DFO, Gudalur Division.
analysis. O’Valley, comprising 25,530 acres is entirely under leasehold and constitutes half of the leased area in Gudalur. The 16,001 acres of undeveloped portions of O’Valley leases constitute nearly 3/4\textsuperscript{th} of the total undeveloped area of section 17 leases. Manjushree holds almost 3/4\textsuperscript{th} of O’Valley under its lease and consequently more than 90 percent of forestlands in O’Valley. Following in order of private forest possession is HLL, with 4489 acres, which along with Manjushree forms a consolidated forested tract of 20,490 acres. These spatial dimensions have combined with legal ambiguity, for forests to emerge as realms of ambivalent control and consequently anomalous due to encroachments by migrant peasants, local and cross border land speculators, timber interests, and groups to whom leases have been alienated to. While the 1991 report by the District administration approximated 5000 acres of private forests as being under encroachments, the 2002 perambulation reveals an extent of 10,928 acres under 6426 encroachments\textsuperscript{79}. Though this decadal increase in encroachments is representative of two distinct phases viz. 1990 to 1999 and 1999 to 2001-2, there remains a preceding phase that emerged subsequent to the notification of the Jannam Act in 1974. Besides the presence of indigenous groups such as the Nayaka and Paniyas and estate workers who have historically been recruited as labor by plantations, Tamil repatriates from Sri Lanka and Syrian Christians from Kerala have also gradually occupied lands in O’Valley\textsuperscript{80}. The increase in colonized acreage from 5000 acres to 10,928 acres as surveyed in the 2002 perambulation, has been the consequence of a second phase of encroachments during the years 1990-1999, which differed from the earlier livelihood variant in that it

\textsuperscript{79} While encroachments include alienated portions in Section 8 plantations like the Glenrock and in section 17 plantations such as Periahora, and other instances of small scale encroachments in leases of F.I.D. Parry and Mahaveer, almost 90\% of encroachments are in Manjushree’s and HLL’s Lease.

\textsuperscript{80} Interviews with old estate workers; Notes on the issues relating to the Guzerat Jannam Lands, R.D., pp 6. 2002, Comprehensive Note for Discussion in the High Level Committee Meeting Convened By The Chief Secretary To Government, pp.5-6, 21-7-2001.
coincided with a tea and spice boom, land speculation and timber poaching. Combined with, and complemented by, an heightened ambivalence during the 1990s, the resilient tea and spice market, real estate speculation and felling fed into each other. Subsequent to the increase in tea prices, between 1985 and 1995 and a concurrent buoyancy in the pepper and ginger market, small encroachments ranging from 2 to 3 acres, and larger encroachments varying from 15 to 150 acres, proliferated. There was no concrete intervention by the forest or revenue departments in a largely renegade real estate enterprise entailing the felling, clearing and developing of forests-lands, and the buying and selling of lands thus developed. Further, this proxy property regime remained economical given the absence of ryotwari patta, which fact along with the dormant risk of evictions, encouraged the ‘discounted’ land trade. Both local and migrant farmers cite the cost effectiveness and absence of any problems with the forest department as a rationale for their decisions to settle or cultivate in Manjushree’s lease. While a local settler referred to the unrestrained nature of the enterprise where ‘everyone was buying lands and cultivating in O’Valley’, he also reveals a general demeanor when alluding to the fact that ‘a lot of people are involved’ and that if there was a problem, he ‘would never have bought the land’. The suggestions of a well embedded illegal enterprise are evident in the claims of migrant encroachers that the availability of labour work and daily wage in larger encroachments that cultivate labour requiring crops like ginger.

*1 Interviews and Field notes.
*2 Interviews with small and medium encroachers in Manjushree.
*3 Interview with a Malayalee Roman Catholic farmer from Sri Madurai village who bought 12 acres for Rs. 3 lakh from a local Malayalee Policeman’s kin in 1990.
induced them to migrate and occupy. Further Tamil repatriates constitute the predominant felling labour for the timber trade.

Encroachments in HLL’s lease varies in spatial and ethnic character, given its location in the villages of Padanthorai and Cherumulli, which have a substantial Maundadan Chetti presence given the community’s traditional inhabitation of the area and the cultivation of its swamps with paddy. Tribal communities, especially Paniyas who have customarily worked on Chetti swamps, also have a sizeable presence in the lease. Apart from their patta lands, Chettis also possess extra lands for which, despite their possession, the state did not consider them eligible for settlement, such lands also occurring in HLL’s lease.

Apart from this default encroachment, undeveloped forest-lands have for the most part been encroached by Moplahs both local and from Nilambur, Wynaad and Mallapuram, as their ethnic counterparts from erstwhile Malabar have historically constituted the major workforce for the estate. Encroachments can be classified into two phases, namely pre 1998-1999 small scale occupation and post 1999 major occupations. The earlier phase involved small encroachments of 1 to 2 acres at the estate margins by Chettis, tribal Paniyas, Nayakas and Kurumbas, and estate workers including Moplahs and Kannadigas, and Tamil repatriates after, but not necessarily, the Janmam Act, and gradually since through the 1980s and 1990s, specifically during 1994-1996. During the latter phase the ‘Gulf’ phenomenon, operated in Devarshola, where kin of estate workers or encroachers invested money earned in the

* Interviews with Tamil repatriates and Malayalee Christian migrants from Wynaad.
* Field notes, interviews with farmers and discussions with guards and foresters of O’Valley beat, Gundlur range.
* Survey by the Maundadan Chetti Association, 2001. There are around 61 Chetti families in the possession of approximately 134 acres. Additionally there are 165 tribal families in occupation of lands, with and without title.
middle east in land occupation and cultivation. As on 2002, 186 hectares of forests have been encroached and cultivated with tea, coffee and ginger. There are around 50 big encroachments ranging from 10 to 20 acres and around 50 to 60 small encroachments at the boundaries.\textsuperscript{87}

Major encroachments during the post 1998-1999 period in HILL’s lease in Padanthara, Cherumulli and Nelliyalam villages and Manjushree’s lease in O’Valley have similarities. Such encroachments are classifiable into the 145 acres that were regularized in HILL’s lease and 707 acres that were regularized in Manjushree’s lease during 1998, and 2000 acres encroached subsequent to 1999. The former, known officially as ‘irregular patta’ entailed the indulgence of a settlement officer in the prevailing ambiguity by legally maneuvering the situation in favour six Malayalam speaking Hindu, four Moplah, one Tamil and three Syrian Christian beneficiaries from Gudalur and Kerala who procured fake tax and land documents and fabricated possession and cultivation. The encroachers contended leasehold rights for 1000 acres alleged to have been ‘surrendered’ by lessees to jannies in O’Valley. Forest department officials had also been instrumental in the formation, albeit vegetative if not legal, of certain of these regularised tracts.\textsuperscript{88} Post 1999 encroachments, according to the state, emerged since September 1999 ‘approximately over 2000 acres of forest cover in O’Valley, Padanthurai, Cherumulli and Nelliyalam’\textsuperscript{89}, and subsequent to the Supreme Court’s orders in August 1999 ‘there is a spurt of encroachments in the lands

\textsuperscript{87} Interview with HILL.

\textsuperscript{88} Interviews with guards and forester of O’Valley beat, Gudalur range. The DFO who served during late 1990s is reported to have visited, albeit in an informal capacity, the 150 acre encroachment of a Syrian Christian lawyer from Calicut, Kerala.

\textsuperscript{89} Note on Encroachment over Section 17 lands having green cover and other Forest areas under the control of forest department. Problems and Remedies Proposed. Prepared by District Forest Officer, 17-9-2000.
under section 17 of the Gudalur Janmam Act. According to the PAT such encroachments are the consequences of 'rumors', which were spread by 'Government sources' of the possibility of lessees loosing their case and the Government assuming forest control and the prospects of those in possession being eligible for patta under section 10. Planters refer to a general disposition among encroachers of entitlement to patta if in possession, and rumors spread by lawyers of encroachers being eligible for patta if applied for.

Encroachments, initially manifest as livelihood exigencies till the mid 1980s and subsequently as a quasi-legal economic enterprise founded upon possession rather than proprietary have also gained legitimacy as a work and wage constituency entailing felling, clearing and cultivation. The ecological consequences of such a process are evident in the altered vegetations of O'Valley and H.L.L and in some tracts in the former, beyond recognition. In O'Valley evergreen forests remain intact only along the higher reaches of the eastern slopes, along the Pandiar river's course specifically the lower reaches, and along the Western boundaries along Nadugani. Contemporarily O'Valley has emerged as a medley of small polycropped patches, medium sized tea tracts, large tea and coffee estates, twenty four settler colonies, anthropogenic savannah and forests. This landed anomaly, albeit their involvement, has been attributed by lessees and the forest department, to the revenue department. The revenue department, specifically the village administrative office, is credited with the establishment of a 'possession' regime, through issuing tax receipts, encroachment fine receipts, possession certificates, survey numbers and land sketches, all of which

90 Communication of the Principle Chief Conservator of Forests (PCCF) to R.D., in 'Notes on Discussion To Be Held On 18-9-2000, Secretary's Chamber'.
91 Statement issued by the Secretary and Advisor, PAT, November, 1999, The Hindu.
92 Interview with H.L.L and Parry Agro.
93 Field notes (25-2-2002).
are produced in courts to gain 'de facto' possession and injunctions against evictions.⁹⁴ Albeit the initial manifestation of a monolithic state whose revenue and forest bureaucracies concurred over conservancy as was evident in its initiation through agrarian legislation which bureaucratically is the prerogative of the revenue department, the state has emerged differentiated. The revenue department's disposition manifest in the orders of village and settlement officers has beleaguered the forest department. The fact is palpable in subordinate personnel's rhetorical rendering of contingencies such as the 'revenue department finishing the forest department which might have to shut out as forests are disappearing' or 'a forest being destroyed and a revenue village created'.⁹⁵ Such contentions have also found ironic constituency in the revenue department itself as evident in a report based on a preliminary visit by a settlement officer in 2001 that indicts his department while describing the landed anomaly. The officer appointed on October 2001 to address settlement issues that arose subsequent to the 1999, mentioned in his report the violations by lessees of their undertaking to the Supreme court. The report also states that 'section 17 lands have fully been converted into housing plots and houses were constructed thereon. Churches, Mosque, Temples, Schools, Hospitals and other public utilities have come up in the above lands. In a few lease cases, there is no plantation at all and all lands have been converted for non-agriculture purpose. A few villages have been converted into Town Panchayaths viz., Devarashola, Nelliyalam and O'Valley. No ground rent patta has been granted to many of the houses and no ground rent is realized from the town site. In short the character of the land has been totally changed'. The report also refers to the discontinuity in settlement proceedings

⁹⁴ Interview with encroacher farmers, HLL, Manjushree, DFO and legal representatives of plantations. The irregular patta grant was premised upon such fabricated and obtained records. A 'local' Christian Malayalee farmer, born into a migrant family who encroached forestlands in Sri Madurai
⁹⁵ Field notes, (21-11-2001 & 26-11-2001) on discussions with foresters and clerical staff, respectively.
pending Supreme Court appeals and the required implementation of ‘second settlement operations’ in the context of the ‘changed scenario’.

4.4.11 The Attenuation of Legal Ambiguity and the State’s Surmounting of Landed Ambivalence.

The post 1999-2000 period has witnessed a more cohesive state initiative marked by inter-bureaucratic effort consequential to changed legal circumstances. The withdrawal of their petitions by plantations in 1999 and the supreme court’s interim orders in the Writ filed by a member of the Nilambur Kovilagam in 1995 on protection and conservation of forests, have attenuated legal ambiguity and subsequently landed ambivalence. While legal ambiguity has attained certitude at least in its connotations of delay which has temporarily ceased, ambivalence is gradually being surmounted through the forest department’s survey of felling in plantations on the orders of the Supreme court in its deliberations on a contempt petition filed by the Gudalur DFO, and the revenue department’s ‘perambulation’ of section 17 lands to commence settlement delayed for over two decades. With the TNPPF Act the only legislative devise to control section 17 and 8 forests, its empowerment of a first class magistrate to impose paltry penalties has not deterred forest offences. The Forest Conservation Act which had so far remained marginal in its influence to section 17 forests, has since the interim orders of the court in 1995 that had clarified the meaning of forests under the Forest Conservation Act as including, apart from its ‘dictionary’ sense, ‘any area recorded as forest in government records

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96 ‘Agenda’ prepared by the S.O, Gudalur Jannam Lands for a meeting convened by the C/D.S.S on 5-12-2001, Coimbatore, RDF, Chennai.
99 Minutes of the Meeting on Jannam Lands Held at the Secretariat, Chennai, 26-12-2001.
irrespective of the ownership", emerged central to conservancy efforts by the forest
department in Gudalur. The 1995 interim orders disallowed any further expansion of
plantations by way of encroachments or otherwise, such orders deemed to be
operative contingent to any variant order by the state and any court or tribunal. The
orders have been put to effective use by District Forest Officers who have served
since 1999 in retaining and retrieving forest control. A serving officer during 1999 to
2002 put the Government to notice on ‘seditious attitudes adopted by land grabbers’
and sought and gained a special police task force for evictions, which combined with
a professed sanction from the interim orders, lead to the eviction of more than 600
acres encroached since 1998-1999.\textsuperscript{100} The forest department during the years 1999-
2000 and arguably since, has established its authority over section 17 and 8 forests as
never before.

The withdrawal of petitions in 1999 has paved way for framing rules under section 17
of the Janamam Act. The state beleaguered by the ‘long and tortuous legal battles’ and
the potential of litigative contingencies, senses the futility of invoking the principle of
‘public interest’ envisaged by the Act as rationale for any eventual termination of the
lease. Evaluating the legal constrains of accepting lessee claims and litigative
prospects of rejecting them, and the contradictions of treating lessees as tenants as
sought by the former and suggested by the court, the revenue department is currently
considering the possibility of renewing expired and operative leases and stipulating
conditions as recommended by the erstwhile Board of Revenue in 1980.\textsuperscript{101} The Board
had originally envisaged the futility of taking over leases for ‘public purpose’ as it

\textsuperscript{100} A Note on Encroachment over Sec 17 Lands Having Green Cover and other Forest Areas under the
Control Of Forest Department: Problems and Remedies Proposed prepared by The District Forest
Officer, Gudalur, 17-9-2000.

\textsuperscript{101} Note on the Issues relating to the Gudalur Janamam Lands, 2002, R.D, Chennai (pp.10-11)
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\textsuperscript{100} A Note on Encroachment over Sec 17 Lands Having Green Cover and other Forest Areas under the Control Of Forest Department: Problems and Remedies Proposed' prepared by The District Forest Officer, Gudalur, 17-9-2000.

would lead to 'endless litigation' and would also involve compensation. The board and present revenue department however deliberate the only legally rational possibility of extending leases for developed lands alone. The prevailing policy of taking over 'undeveloped' portions for their tropical ecological value, besides the legal compulsions of the 1995 interim orders and the consequent implications for the Forest Conservation Act, suggests a marked shift for a department whose penchant for productive activity and its fiscal potential was evident in its subordinate personnel's establishment of revenue relationships with encroachers and the facilitation of their manipulation of ambiguity and ambivalence. Until 1990, private forests were normally referred to by the revenue classification of 'undeveloped' lands. The following decade is characterised by such fiscal classifications being complemented by ecological concerns which at the end of the decade have culminated in a policy that recognizes, apart from the legal constrains of allowing forest conversion, the ecological services of tropical biodiversity. The waning of the state's fiscal interests and the emphasis on 'legal-ecological' concerns is evident in a comparison of rationales purported by the revenue department, over a decade, for the takeover of private forests.

The district administration which is the local revenue headquarters, for instance during 1991, postulated contingencies of the state in the event of winning the case, loosing a colossal amount through under valuation of timber sales by plantation lessees which jeopardized the 'Government interest'; and it being 'a pity, if the Government ultimately wins the case but there is no forest to take over'. As part of the manipulative zones of the Nilgiri Biosphere Reserve and as an important water catchment, private forests are vital to the 'economic and ecological development of
the Nilgiris’. In 1999 the administration, noting expansion of their plantations by lessees, claimed that the continued possession by lessees of private forests ‘would be highly detrimental to the ecological interests of the nation’. Since 1999, however, ‘legal ecological’ conjunctions have emerged the paramount rationale for the statization of private forests. According to prevailing state policy, which is also reflective of a forest-revenue department consensus, ‘undeveloped lands’ are nothing but forests’ which form the catchment area for the Pandiayar and Punampuzha rivers, remain home to animals like the Asiatic Elephants, and are predominantly west-coast tropical evergreen forests that once lost cannot be regenerated. Further alluded to is the global biodiversity debate in general and the endemic presence of 1500 species to the region.\textsuperscript{102} The ‘idealistic’ state’s ecological rendering is however qualified by the ‘political’ state’s legal discourse. Thus, while genetic diversity requires protection ‘at any cost’, ‘any violation will attract the provisions’ of, apart from the TNPPF Act, those of the Forest Conservation Act which consequent to the Supreme Court’s interim orders in 1995 apply to all forests recorded as such by the Government ‘irrespective of the ownership or classification thereof’.\textsuperscript{103} The grant of pattas for ‘undeveloped’ lands to plantations or encroachers either as lessees or tenants impedes the implementation of judicial directives. Deliberations to notify directly, existing private forests as reserve forests through amendments of section 53 of the Janmam Act and the Tamil Nadu Forest Act, is the nearest ever the Tamil Nadu government has got to in invoking or realizing a ‘public interest’ ideal with regards to the statization of section 17 forests. Even the forest department which exercised marginal control over private forests, consequentially engaged in ‘legal conservancy’ wherein the objects of management were, among other goals of scientific forestry,
the effective dealing 'with cases pending in various courts'. The forfeiture by the
forest department of fiscal concerns in section 17 forests is evident in its preemptive
postulation of conservancy in the contingency of private forests reverting to the forest
department, 'at a latter date'. Here conservancy entailed the department realizing 'the
scheme of things in nature's way and to accept that it is only those uneconomical or
non-timber species that can come up' in , including apart from statised forests, section
17 forests classified as the 'Biodiversity Conservation Working Circle'.

This eschewing by the state, of fiscal possibilities in ‘tropical’ ‘biodiverse’ forests,
and its partaking in legal discourses and ecological rhetoric has, apart from the current
political and physical contingencies, been the unintended consequence of litigation
initiated by plantations to gain ryotwari patta and become, ironically, a fiscal
constituent of the state. While successful in impeding for over two decades the
government’s attempts to exercise its political and fiscal prerogatives, plantations
have also been singularly unsuccessful in their attempts at privatisation of leased
forests whether developed or otherwise. As other latent consequences of litigation,
statization or privatization of private forests have contemporarily emerged
exceedingly intricate in their implementation. While the government has also
contributed to this impasse by not seriously pursuing the planter's petitions especially
in the latter litigative decade of the 1990s, it has always remained a reluctant party
to litigation, which initiative has exclusively been that of plantations. Though there is
an express relationship between legislation and litigation, it only suffices as a broader
context reflective of plantations’ conduct as an economic enterprise firmly embedded
in the market. A qualified comprehension of litigation and its 'instrumentality' is

\[104\] Working Plan 1-4-1998 to 31-3-2008, Gudalur Forest Division, pp 35.

\[105\] For instance in the reports of 1991 and 1999 cited, the district administration was requesting the
Government to expedite the petitions pending in the court.
possible in an interpretation of the conduct of the planter as an 'economic man', and an understanding of planter motives and intentions with regard to proprietary and timber. Interpretation also needs to be extended to the collective assertions of the planter community as configured in the Planters Association.

4.5 Planter Strategies of Resistance and Forest Estimations

4.5.1 Litigative and Productive Strategies

Litigative and productive strategies adopted by planters are instructive of their economic interests in resisting the Janmam Act and retaining forest control. Litigation, here, requires interpretation as a rational means to pursue the rational end of forest control, if not total, a percentage thereof. Litigation was the only rationally expedient strategy available and applicable under the political and economic circumstances entailing the government’s solemn engagement in the political project of agrarian reform and the exigencies the project entailed for planters. Retaining forest control for prospective conversion and not conservancy was the rational end pursued. Gaining forest control for conservancy in the planter’s scheme could only entail an irrational element. Availing of their abilities to solicit legal expertise, planters resisted the state in the dual, albeit common, litigative procedure of petitioning the High Court and upon adverse ruling, appealing in the Supreme Court. After their temporary success in preempting and prolonging the notification of the Janmam Act, planters in the post notification period have legally challenged the implementation of its provisions pertaining to forests and forest leases.

Litigative content partook a common aspect of the logic, and consequently the legality, of the applicability of the Janmam legislation to Gudalur. Thus in their initial
vegetation of plantation leases, as legal entities. Planter and janmi contentions that
their forests do not fit the constitutional definition of ‘estate’, and that forest
acquisition is suspect as agrarian reform, were ecological and legal juxtapositions of
forests to agrarian landscapes, which could facilitate the emergence of ecological and
legal inconsistencies in the Janmam Act. Forests served as zones of legal
manipulation given their status as the dominant and distinct vegetation of leases that
could undermine state acquisition on the premise of agrarian reform. Planter motives
are further evident their legal initiatives subsequent to the inclusion of the Act in the
9th schedule of the Indian constitution, which apart from constitutionally protecting
the Act from judicial scrutiny also pre-empted planters from invoking forests to
contest acquisition for agrarian reform as legally untenable. Thus in the post
notification litigative phase planters intently availed of proceedings contradictorily
initiated by the government under the Land Ceiling Act and petitioned the High Court
and appealed in the Supreme Court over the jurisdiction gained by the Land Ceiling
legislation in Gudalur. Planters have intermittently initiated litigation by soliciting
both legal expertise and potentially litigative contingencies and thereby deferred
acquisition. The ‘productive’ activities of planters on the forest floor during the
resultant legal hiatus besides revealing their manipulative motives are also reflective
of their ‘timber’ estimates of forests. While not implying any orchestration whereby
planters litigated to induce a legal and temporal void which was taken advantage of, it
can be credibly argued that though the legal hiatus was intended, planter indulgence
in it was opportunistic. Such activity, describable as ‘non litigative’ strategies of
resistance, while remaining contingent to litigative strategies also complemented the
same and provide finer insight into planters’ dispositions.
The current and professed conservancy by plantations involving policies of sustainable agriculture, social forestry programmes and vigilance are legally circumscribed and are necessitated by the post 1999 legal circumstances entailing withdrawal of petitions, implementation of the Court’s 1996 orders in the Janmies’ writ petition, and the subsequent attenuation of ambiguity and ambivalence. However while the ambiguity and ambivalence prevailed and despite the undertaking in the Supreme court and the presence of the TNPPF Act, planters developed 6113 acres of forests within their leases with coffee and tea given the dictates of the market and business interests, but more significantly in speculation of legal contingencies.\textsuperscript{117} While expansion of planted area leads to increase in production it also serves as increased developed acreage over which plantations can claim title in the event of regularization of the lease. Thus, the alteration of ecological characteristics has tenurial implications whereby planters’ conversion of forests and the increase of area under crops is based on an instrumental rationale, in anticipation of the vesting of developed lands with them instead of with the state, of having made considerable economic investments on land which could render dispossesion by the state, unjust.\textsuperscript{118}

4.5.2 Timber Estimates

Where the clearing of forests occurred legally, it was the consequence of permissive timber and transport clauses and conditions in the TNPPF Act and the Supreme Court orders, respectively. Felling was also premised upon judicial orders sought by planters and granted by various courts restraining the forest department. Permits were often

\textsuperscript{117} The extent is the difference between the area developed in 1974 and 2002 and includes smaller leases.

\textsuperscript{118} Working Plan, Gudalur, 1-4-1998 to 31-3-2008, (44).
sought and obtained for felling and transporting 'large number of timber logs' 'lying in the fields', such seeking and granting of permits being 'the usual and necessary incident of normal working of an estate'. Such legal maneuvering offered latitude to planters by requiring them to seek the state's approval to fell or deposit with the state the realization from sale of felled timber, or by holding in abeyance official orders that disallow felling requisitions, respectively. With regards to the former requisite, business interests were safeguarded through under-pricing timber sale deeds or by undervaluing timber. While legal latitudes granted by favorable court orders allows clear-felling, planters have more frequently resorted to vegetative manipulation, which the forest department labels 'clandestine' conversion. This involved the retaining of 'the natural tree growth of the 1st storey' but removing 'the 2nd storey and ground vegetation' and planting those areas with coffee and tea. Ground vegetation is cleared and let to dry while the activity remains undetected. The area is then 'planted with coffee and tea seedlings just before monsoon so fresh plantings get firmly established in the subsequent rains' during when patrolling is minimal. 'After two to three year growth further development takes place boldly as it would not look like a new operation' and 'eventually natural trees are replaced with Silver oak' (Grevilla Robusta) for their shade regulating properties. In yet another 'ingenious' strategy attributed, in this instance by the revenue department, to planters,
the latter 'indirectly encourage encroachments and felling' 'with the oblique motive of bringing these denuded areas under tea cover'.¹¹²

The commercial value of timber that is realized either in the process of conversion of natural vegetation for monocultural production for the market or for its own vested ends, the former regularly remaining the ruse for the latter, clarifies planter motives. Species such as Rose wood, Ayini, Red and White Cedar, venteak and Teak prevalent in section-17 forests, are valued for their furnishing worth. Of these, Rose wood along with White cedar is of superior value on account of its ornamental heartwood¹¹³ and constitutes a floristic species in evergreen and moist forests of the southern portions and its natural regeneration is marked around forests of Devala and Devarshola. Consequently, plantations in these regions such as Woodbriar and Sussex have sought, as during 1994, the district administration’s consent to fell 4500 trees among which were species with timber value such as venteak, and rosewood. This request was legally conjectured upon and consequent to, the Madras High court’s concession to a Gudalur based minor section 17 lessee to fell around 60 rosewood trees¹¹⁴. Along with the Peria Shola estate in O’Valley which also applied permits to fell 1500 trees, the Woodbriar and Sussex invoked the shade regulation provision and sought felling permits. The district Forest officer’s rejection of permits, were challenged by the

¹¹²Letter from the Collector to the Chief Secretary, Fort St. George, Madras; D.O.A5.No.17989, Dt. July 1991.
¹¹³The woody centre of a tree, darker in shade and more decay resistant than the sapwood. Rosewood allows more intricacy and depth in carving, and makes striking veneers and panelling. The species is also in demand as sounding boards for high quality musical instruments like pianos, clarinets and gutters.
¹¹⁴The Sudershan estate had sought permit under the guise of 'shade regulation' - a provision that allows felling in the event of excess shade of trees interfering with tea and coffee growth- to fell 2000 trees whose including teak and rose wood. Subsequent the state’s refusal to permit felling the planter appealed twice in the High Court successfully.
The Peria Shola planter along with planters of the Panchura estate to whom the former had by then alienated large portions of the estate, upon the strength of an order from the high court that stayed the District Forest Officer’s (DFO) rejection of felling permits, and subsequently the district Collector’s orders, felled trees in what was called the ‘Cathaline’ forests.

Planters also allude to economic and legal contingencies in terms of a convergence of favorable market conditions and the legal availability of lands respectively, for expansion of cultivation in future. Collectively, as represented by the PAT, planters have resorted to a selective ecological and legal reading of forests in their claims to the state, based on the latter’s impetus to increase tea production, for making available ‘30,000 acres of land suitable for tea available in Gudalur taluk’ and ‘in the possession of existing plantations’. The planters’ claims have been based on the premise that such lands are not reserve forests and are degraded grasslands, and a portion (4000 acres) of such ‘uncultivated’ lands requires the state’s consent to be retained by plantations for extension of tea cultivation. The ecological premise is further advanced and complemented by a political and economic rationale wherein the development of ‘waste’ and grassland is seen to ‘be in the interest of the state’ and ‘plantations with a high density of tea and coffee bushes and thick canopy of shade

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115 Even as the DFO rejected the claims of Woodbriar and Peria Shola citing the Tamil Nadu state’s stand in the Supreme court with regards to the Madras high court’s concession to Sudershan estate, the Government Orders (GOS) (Nos 417 and 512 of 1980) that empowered the DFO to permit felling for shade regulation and selective felling, were repealed in June 1994, which authority reverted to a committee headed by the District Collector. With this retrieval of authority from individual DFOs, some of whom were disposed to gratification, obtaining felling permits from the collector headed committee had become difficult.

116 Affidavit filed in WP 202 of 1995 by the President of Gudalur unit of Tamilnadu Forest Staff Association, in the Supreme Court, 18 February, 1999.

117 Interview with the Silver Cloud estate, Cooperative Wholesale Society (Parry Agro), and Tea Estate India Ltd (HLL) and Manjushree.
trees provide an efficient and effective secondary forest cover. Further given its status as a perennial crop, tea is considered ecologically benign as it stops soil erosion. Economically the extension of plantations will generate employment in a 'backward' locality.

4.6 Conflict between Peasants and the State

4.6.1 Conflict Identities of Peasants

Landless and poor farmers have occupied since 1950, and remain in possession since 1970, of lands notified by the government as reserve lands (RL) and reserve forests (RF) in jannam and non-jannam ryotwari lands, and section 17 forests. Though forest encroachments have been regularized by the government during 1964-1965, 1971-1974 and 1977, encroachments have persisted both as consequences of non-regularization and as new encroachments. Encroacher estimates and extent of encroachments in the three forest regimes in Gudalur are classified below.

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118 Save Nilgiris Campaign (henceforth SNC), Newsletter, Vol. I No 13 (1987; 5), SNC. Newsletter, Vol II, No 1(1988; 6). Despite referring to forestlands as degraded and grasslands, the PAT had requested the state, on occasion of its 34th annual conference in 1987, to review its land policy that disallowed 'clear felling'. The economic and ecological arguments put forward were in reply to the SNC's highlighting in the media on occasion of the arrival of the Save Western Ghats march at Gudalur on December 6th 1987, of the Planters request to the state to allow expansion.


120 Interview with Parry Agro; SNC, Newsletter, Vol II. No l(1988; 6).

121 Reserve lands are lands proposed by the Government to be converted into reserve forest under section 4 of the Tamil Nadu Forest Act and for the reason are also known as '4 notified' lands. Subsequently after 12 other notifications, a reserve land is notified as Reserve Forest under section 16 of the Act.

122 Encroachment Details in Reserve Forests (RF) and Reserve Lands (RL) of Gudalur Division, 2001, Gudalur forest division office (henceforth GFD).
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Extent of Encroached Area (in acres).</td>
<td>3094</td>
<td>527</td>
<td>10,928</td>
<td>14,549</td>
</tr>
<tr>
<td>Number of Encroachments.</td>
<td>2379</td>
<td>553</td>
<td>6426</td>
<td>9358</td>
</tr>
</tbody>
</table>

Private forests in plantation leases in O'Valley and Padanthorai comprise the highest number of encroachments and the largest encroached area. Within reserve forests and lands in the four forest ranges of Gudalur, Pandalur, Bitherkad and Cherambady, the number of encroachments and consequently area of encroachments is higher in reserve lands. Reserve forests in comparison have the least number of encroachments and the lowest encroached area. Encroachments of statized and private forests are classifiable according to spatial, temporal and social characteristics. Spatially, encroachments reflect certain occupancy traits entailing physical and productive characteristics and temporally reveal historical phases of occupation. The spatio-temporal identities of encroachers notwithstanding, it is their heterogeneous social characteristics that are instructive of conflict identity formation.
4.6.2 The Regional and Linguistic Origins of Migrant Peasants, and Migration Phases

A majority of peasants who immigrated into Gudalur have done so directly and sequentially from the two distinct politico-linguistic regions of Kerala and Tamil Nadu. Malayalee peasants from Travancore migrated to the hill ranges of Malabar and then migrated to its northern portions including Gudalur. Tamil peasants from Sri Lanka were repatriated to coastal Tamil Nadu and subsequently settled in the Nilgiris and its North/North-Western region of Gudalur. Migration from Kerala in the initial half of the 20th century entailed the seasonal recruitment by British planters specifically in O'Valley and Davarashola, of poor Moplah peasants from the neighboring and erstwhile district of Malabar. Respondents who migrated in the 1950s and occupied forests did so during the ‘Grow More Food’ scheme introduced by the Madras Presidency to contain wartime scarcity. Immigration to Gudalur during 1940 to 1970 is constituent and residual of a larger migratory movement of farmers from the former princely state of Travancore to erstwhile Malabar since 1940s, which is popularly referred to as the ‘Wayanad Migration’, as the region emerged the center of ‘Travancorean settlement’. Among Northern districts of Malabar that witnessed larger scales of immigration from 1941 to 1951, Wynaad experienced the highest rate of population increase of 59.2 percentage. Correspondingly Gudalur experienced a 33 percent increase in population during 1941 to 1951. While Wynaad had experienced its highest decadal increase in

123 Interview with Moplah estate working respondents from Section 17 private forests in O'Valley and Devareshola.
population from 1940-1950, Gudalur had only begun to experience a trend of escalating decadal population increases since 1950 as evident in the following table.\textsuperscript{127}

Table - 7

Decadal Population Increase In Gudalur: 1951 to 1991

<table>
<thead>
<tr>
<th>Year</th>
<th>Decade</th>
<th>Population</th>
<th>Percentage of Decadal Increase</th>
</tr>
</thead>
<tbody>
<tr>
<td>1951</td>
<td>1941-1951</td>
<td>45,598</td>
<td>33%</td>
</tr>
<tr>
<td>1961</td>
<td>1951-1961</td>
<td>66,057</td>
<td>45%</td>
</tr>
<tr>
<td>1971</td>
<td>1961-1971</td>
<td>93,153</td>
<td>41%</td>
</tr>
<tr>
<td>1981</td>
<td>1971-1981</td>
<td>1,41,339</td>
<td>51%</td>
</tr>
<tr>
<td>1991</td>
<td>1981-1991</td>
<td>1,80,795</td>
<td>28%</td>
</tr>
</tbody>
</table>

Over the next two decades, Gudalur’s population increased by 45 and 41 percentages respectively; the ‘Wynaad migration’ conjecture sufficing as reason for such increases. While the presence of vast and fertile cultivable frontier in Northern Malabar and the advocacy of the same by the Madras Presidency through the GMF scheme provided the structural factors of ‘pull’, certain economic factors of ‘push’ operated in mid and coastal land Kerala. Respondents who migrated from Ernakulam district, which formed part of the Travancore state, during 1950 to 1960, apart from alluding to the GMF scheme and the availability of land, in Gudalur specifically and Wynaad generally, also refer to work prospects, landed deficiency, a disproportionate land-large family quotient and the difficulties in irrigation as reasons for migration.\textsuperscript{128}

These agro-economic factors find larger contexts in Travancore, such as a four decadal increase of 119.57 percent in its population from 1911 to 1951 and a corresponding increase of 47.09 percentage in occupied area. Increases suggest landed pressure due to population increase and a large-scale shift to plantation agriculture in

\textsuperscript{127} Gopalakrishnan, M. eds. 1995. ‘The Nilgiris District’, Gazetteers of India, Tamil Nadu.

\textsuperscript{128} Interviews with farmers in Cherambady and Munanad.
latter 19th century, a process, large number of small holders participated in by cultivating cash crops and spices for the market. However the 51 percent increase in the subsequent decade of 1971 to 1981, the highest ever in Gudalur's decennial demography, is the consequence of a 'second-stage' migration of original Travancorean migrant farmers from geographically proximate regions of Kerala, namely, Wynaad, Pulpalli, Nilambur, Sultan's Battery and Mallapuram, and the repatriation of Tamil plantation workers from Sri Lankan high ranges to Tamil Nadu and their settlement in the Nilgiris. State policy has influenced these migratory itineraries and migrant decisions, whereby, migration from neighboring Kerala entailed land ejection and entitlement schemes, and migration from Sri Lanka followed a bilateral agreement in 1964 between the governments of India and Sri Lanka to repatriate Tamil estate workers in a phased manner, which lasted from 1968-1984, and rehabilitate them in plantation schemes designed for the purpose. The subsequent decadal, albeit comparatively moderate, increase in migration during 1981-1991 owes to residual Tamil repatriation, and since the completion of their rehabilitation by 1984, their 'second stage' migration from Coastal Tamil Nadu largely on the basis of information through formal and informal networks of relatives and friends in Gudalur. Migration from Wynaad and coastal districts of Kerala such as Cannanore continued at transmuted rates. The political economic factors of agrarian policy and change notwithstanding, the reasons for migration and encroachments of forest-lands in Gudalur are more instructive in the delineation of socio-cultural characteristics of encroachers.

129 Tharagan (1978).
130 Under the Shastri-Sirmavo agreement, 5,25,000 persons of Tamil origin were to be repatriated to India over a 15 year period. Among various schemes designed for their settlement, was the Tamil Nadu Tea Plantation Corporation (TANTEA) in the Nilgiris.
131 Interview with Tamil respondents in R.F.'s, R.I.'s and section-17 forests.
4.6.3 Socio-cultural Identities of Encroachers and Occupancy Patterns

Encroachers in Gudalur can be categorized into three major religious groups, namely, Syrian Christian, Moplah Muslim and Caste Hindu, each of these religious groups emerging as the dominant migrant ethnic presence at certain historical junctures in Gudalur's formation as a heterogeneous society. Thus, Moplahs or Malayalam speaking Muslims categorised as backward castes and concentrated in the geographically proximate Mallapuram district of Kerala, by reason of their recruitment by British planters from O'Valley and Devarshola and their occupation of what contemporarily forms 'section-17' forests, remained the majority migrant-encroacher category till 1950 when Travancore based Syrian Christian farmers migrated to the region. Syrian Christians, classified as forward/other castes are dually segregated into the factions of Roman Catholic (RC) and Orthodox, with each of these factions further differentiated according to ritual and denominational allegiance. These 'estranged' religious realities were operative in Travancore during the emigration decades and are still evidenced in Gudalur among Syrian encroachers in terms of broad spatial patterns of their encroachments in reserve lands and reserve and section-17 forests. For two decades from 1950 to 1970, Syrian Christians were the majority migrant-encroacher factor in Gudalur. The rehabilitation of Tamil repatriates in plantations in Gudalur since the mid 1970s to mid 1980s and their occupation of private and reserve forests and lands, has lead to their assumption of the dominant migrant encroacher status during the decade. Repatriates are scheduled and backward castes who were recruited from coastal Tamil Nadu as plantation labour in erstwhile

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132 Syrian Christians are members of churches in communion with Rome and churches not in communion with Rome. Certain divisions of rite and allegiance are evident whereby churches in communion with Rome follow either to the Syro-Malabar Rite or the Syro-Malankara Rite. Churches not in communion with Rome are divided into two factions, namely, Malankara Orthodox Syrian Churches belonging to the Meiran Katchi (catholicos) faction and Syrian orthodox Jacobite Churches belonging to the Bawa Katchi (Patriach faction). All of the above mentioned divisions are evident in Gudalur.
and colonial Ceylon during the 19th century. While repatriate respondents were predominantly scheduled castes, there is also a considerable presence of backward castes among the community.

Despite the absence of any strict occupancy patterns according to language and religion, the heterogeneous linguistic and religious identities of encroachers are evident in broad spatial patterns of occupancy as were discerned from interviews and field observations. In reserve lands and forests, encroachments by Tamil repatriates and their immediate and extended families were more prominent in forests proximate to the Tan Tea divisions and respective worker colonies where initial repatriates till 1984 were rehabilitated, namely, in Padanthorai, Gudalur, Devala, Pandiar, Cherangode, Cherambadi Nelliyalam and Kolapalli. These divisions coincide with all four forest ranges, and subsequently ‘Tamil’ occupation is more marked in forests in the Cherambady, Pandalur, and Gudalur ranges. In the Pandalur range, the majority of encroachers are Tamil repatriates. While the Devala, Pandiar and Kolapalli divisions are contiguous to the Pandalur range, the Nelliyalam, Cherambadi and Cherangode divisions are in proximity to the Cherambadi range. Land regularization applications from Devala and O’Valley villages also reveal that a majority of applicants are Tamil repatriates. The presence of two Tan Tea divisions in Cherambady has resulted in substantial occupation of surrounding forests by repatriates and their relatives.133

Syrian Christian encroachments in statized and private forests are prominent where these forest regimes coincide with the janmam villages of Gudalur, O’Valley, Cherumulli, Sri Madurai, the part janmam village of Munnanad and the non janmam

133 Interviews and Field notes
villages of Erumad and Nellakottah. Syrian interview responses also reveal the incidence of Roman Catholic presence in statised and private janamam forests and orthodox or Jacobite presence in non-janamam reserve lands and forests. This pattern induced from responses remains consistent with observations of the incidence of churches and comparisons with church records. While Roman Catholic and orthodox churches are spread through the region, there remains a conspicuous presence of Roman Catholic churches in janamam villages of Gudalur, O’Valley, Sri Madurai, Cherumulli, and Jacobite or ‘Yakoba’ churches in non janamam villages of Munnanad, Nellakottah and Erumad.\textsuperscript{134}

Moplah encroachments are more prominent in the Gudalur range, which includes the section 17 forests of O’Valley and Devarshola and reserve forests and reserve lands of Padanthorai that lie proximate to HLL’s lease. While responses, of Moplah and other encroachers, reveal a comparatively larger presence of Moplah encroachments in janamam rather than non-janamam reserve forests and lands, this fact is largely the consequence of plantation leases in the janamam regime. Encroachment regularization applications support these surmises, wherein thirty-three per cent of applicants in O’Valley are Moplahs.\textsuperscript{135}

The delineation of such occupancy patterns, notwithstanding, the socio-cultural diversity of encroachments in private and statised forests is strongly evidenced. The heterogeneity of encroached forest spaces is evident in field observations and in interview responses, ninety percent of which cited the presence of migrant encroachers and indigenous ethnic groups in their respective forest blocks. The factors

\textsuperscript{134} Field Notes, and Parish records, Coonoor, 2001.

\textsuperscript{135} Gudalur Taluk Land Patta Applications Submitted to the Assistant Settlement Officer, Coonoor, 21-4-1988. Village- O’ Valley. JF. NRR.
influencing occupancy decisions or providing evidence for occupancy patterns such as Tan Tea divisions and Syrian churches, respectively, have only lead to or provide evidences for the predominance of a given community of encroachers in a given forest block. On the contrary, in instances of forests where this 'majority element' is evidenced, it has been complemented by a minority presence. No particular migrant religious-linguistic group has ever been in exclusive possession of a block of reserve land or forest.\textsuperscript{136} Further, the presence of indigenous communities such as the Maundadan and Wynaadan Chetti settled cultivators, the former in the villages of Gudalur, Cherumulli, Padanthorai, Sri Madurai, and Nelakottah and the latter in Mannanad and Nelliylam; the foraging and hunter-gathering Paniyas and Nayakas, specifically the ubiquitous presence of the former, and their productive pursuits and the state’s classification of the same as encroachments, has contributed to the heterogeneity of encroached forest spaces.


Estimates based upon interview responses and observations, reveal the occurrence of particular encroached extents, as discernable from the following table.

\textbf{Table- 8}

\begin{center}
\begin{tabular}{|l|c|}
\hline
Encroachment Extents (in acres) & Respondent Land Holding/Encroachment \\
\hline
55 Cents Up to 3 Acres & 92 (76.67\%) \\
3 to 6 Acres & 20 (16.67\%) \\
6 Acres and Above & 8 (6.67\%) \\
\hline
TOTAL & 120 (100\%) \\
\hline
\end{tabular}
\end{center}

\textsuperscript{136} The disconfirming instances are private forests, which are continuous 'unordered' tracts, wherein a particular section of encroachers may have occupied portions of the tracts eg. Syrians' habitation in Manjushree's lease. Where a particular group or individual is the only instance of encroachment in reserve forests or lands it remains to be seen if the forest in question is a small notified block of, for instance, 1ha.
Encroached extents as inferred from responses and observed on field are predominantly smallholdings ranging from 55 cents to 3 acres. A majority of respondents i.e. 70 percent, had physically felled, cleared and occupied forestlands, while the rest had bought lands from original encroachers. Such encroached lands are called ‘vetti pidichu’ in Malayalam or literally, ‘felled-cleared and grabbed’. Twenty five percent of respondents, usually older migrant encroachers, possessed freehold patta and encroached land. Others in this category had purchased both patta and ‘un-regularized’ land as a ‘package’. The presence of unregularized lands in land holdings of those with patta, is referred to as ‘kai vasam’ lands or literally lands ‘at hand’.

Encroachment statistics from forest ranges bear testimony to such spatial patterns whereby the average encroached extents in reserve lands are 1.22 acres in Bitherkad range, 1.05 acres in Cherambady range, 1.5 acres in Pandalur range and 1.3 acres in Gudalur range. Reserve forest estimates also complement these patterns, with average encroachment extents remaining less than 1 acre in Bitherkad and Cherambady ranges and 1.4 acres in the Gudalur range. The average ‘small’ encroached extents in section-17 forests are 1.7 acres. A scrutiny of encroachment registers of all ranges also reveals the occurrence of extents that measure a minimum of 3/4th an acre to a maximum of 3 acres.\(^{137}\) The spatial identities of encroachers partake of a wider aspect of farm holdings in Gudalur wherein 92.6 percent are small and marginal farmers.\(^{138}\) Marginal farmers, with and without title, in Gudalur are often referred to by the Tamil appellations of small farmer (siru vivasayi) and minute farmer (kuru vivasayi). Albeit similarities in physical extents, certain other spatial parallels are also evident in the physical characteristics of encroached forest-lands, which are mainly productive.


adaptations to forest ecology and cash crop economy. The productive characteristics of encroachments by interviewed peasants are as follows.

Table – 9

Cropping Cultures, Corresponding Subsistence or Market Basis of Production, and Percentage of Respondents Practicing Any or All Cultures.

<table>
<thead>
<tr>
<th>Cropping Cultures</th>
<th>Economic Basis of Production</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Subsistence  Market</td>
</tr>
<tr>
<td>Tea and (or) Coffee</td>
<td>120 (100%)</td>
</tr>
<tr>
<td>Spices/Tuber (Pepper &amp; Ginger)</td>
<td>120 (100%)</td>
</tr>
<tr>
<td>Trees (Jack, Palm, Fruit, Pepper -Supportive)</td>
<td>120 (100%)</td>
</tr>
<tr>
<td>Vegetables (Tropical &amp; Temperate)</td>
<td>113 (94%)</td>
</tr>
<tr>
<td>Poly Cropping (Tea-Coffee, Spices, Trees, Vegetables and Tubers)</td>
<td>120 (100%)</td>
</tr>
</tbody>
</table>

Cropping patterns and estimates discerned from interviews reveal a preference for poly or mixed cropping. All encroacher-respondents cultivated tea and (or) coffee but predominantly tea, spices such as pepper, tubers such as ginger and tapioca, and trees ranging from fruit bearing jack, mango and plantain, palm varieties such as areca nut and coconut, shade providing softwoods such as silver oak and other species.
supportive of and suitable for pepper vines. Vegetables such as tomato, pumpkin, bitter gourd and legumes were also extensively cultivated except in minor instances where tea, spice and tuber were exclusively preferred. Field observations complement mixed cropping patterns ascertained from respondents who further confirmed such patterns in their responses to queries over cultivation practices among other encroachers. This configuration of cultivation in encroached fields is constitutive of a wider agro-regime in Gudalur involving the poly cropped production of perennial and annual crops.\textsuperscript{139} Poly-cultural cash cropping has also remained corollary to a socio-political and ecological union, involving the historical formation of productive identity, state and market intervention, topography, climatic conditions and soil structure. Historically, Syrian Christians and Tamil repatriates have habituated to monoculture due to migration to higher ranges, the former to Travancore and the latter to Sri Lanka. While Tamil encroachers were adept in tea harvest and adapted to poly cropping in Gudalur, Syrians also historically trained in spice and tuber cultivation during the Travancorean plantation phase. Ecological conditions have also facilitated the continuity of such productive identities. Cropping patterns in Gudalur are the productive configurations of a hill-slope and valley-flat topography, a loamy soil structure and climatic conditions ranging from monsoonal activity to moderate temperature and relative humidity. Thus, climatic conditions allow the cultivation of temperate and tropical crops like tea, coffee, spices, and tubers on slopes with darker and acidic soils, fruit and palm and miscellaneous trees, vegetables and tubers on valley-flats with lighter and less acidic soils.\textsuperscript{140} With irrigation impeded by topography and forest law generally disallowing any cultivation related hydraulic

\textsuperscript{139} Ibid.
\textsuperscript{140} Report, 2002-2003, Office of the ADH, Gudalur; Gopalakrishnan, M. eds. 1995, The Nilgiris District, Gazetteers of India, Tamil Nadu.
activity on the forest floor, the cropping of annuals such as vegetables and tubers remains rain-fed and is adjusted to the two monsoons.

Cultivation of perennials like tea has also been the consequence of state policy. The government since 1965 ‘appreciating the plight of small growers, decided to promote the cooperative movement among them’ by opening industrial cooperative tea factories (INCOSERVE), in the Nilgiris where small growers were enrolled as members and enabled to realize ‘reasonable’ prices for leaf purchases.144 This scheme in Gudalur combined with the latter arrival of Tamil migrants skilled in tea cultivation has lead to encroachers, specifically Malayalee, venturing into small-scale tea cultivation. Eighty five per cent of respondents alluded to either leaf procurement facility or availability of skilled ‘leaf plucking’ labour or the combination of both as reason for small-scale tea cultivation. At present encroachers sell their leaves to proximate INCOSERVE or private ‘bought leaf’ factories. This enterprise combined with the selling of spices, areca, fruits and tubers to merchants in towns, confirms the market identities of encroacher farmers. This integration into the market does not however mitigate subsistence activity such as vegetable growing necessitated by economic volatilities in the cash crop market and legal circumstances that constrain total market assimilation.

Among all respondents, except those with large encroached extents, the family remains the main economic unit of production and labour. While this arrangement is an absolute necessity among smaller encroachers with less than one acre, among those with more than one acre, hired labour emerges a possibility when tea, pepper and

144 Report of High Level Committee on Tea Crisis in Nilgiris District, June 2000, pp.3.
ginger crops remained remunerative or when cultivation or harvest required assistance. Hired labour was always monetarily compensated for.

4.6.5 Forest Dependence

Firewood remains the chief forest produce as acceded by sixty five percent of respondents. The remaining thirty five percent either possess alternative fuel sources or refer to the degraded character of proximate forests and also claim dependence for fuel on trees planted by them. Forty percent of respondents use bamboo and eucalyptus as poles for construction and roofing. Others residing in localities marked by low density or degraded bamboo growth live in mud and brick constructions, purchased or preferred. Twenty five percent own cows and graze with or without grazing permits. Only fifteen percent collected dry and shed leaves for compost, the low count owing to factors ranging from increasing use of fertilizers to loss of forest cover. The categories of resource use ascertained from interviews corroborate forest records, which mention the domestic consumption of firewood, cattle grazing, collection of bamboo poles and splits for walls, enclosures and along with thatch grass, for roofing, as the main forest requirements.  

While the forest floor provides the spatial context for encroacher production, the productive characteristics of encroachments reveal no significant subsistence oriented reliance on forest resources that necessitate sustainable resource use or management. Ninety percent of farmers denied any absolute livelihood dependence on forests and most even acceded to a hypothetical curtailing of their access to surrounding forests in the event of patta being granted. While ‘rainfall’ and ‘shade’ were the general refrains

of farmers with regard to the benefits of forest cover, no specific 'subsistence' based reliance was stated.

Dependence on firewood is characteristic of the whole region and not just among encroachers. Bamboo, due to unregulated extraction, is being replaced by bricks baked out of local soil or procured from proximate small-scale manufacturers.\textsuperscript{143} Bamboo is also being substituted by jack and eucalyptus as roofing material. Grazing, among encroachers, is a minority activity. Tea or coffee cultivation on the long duration has mandated chemical fertilization. While the illegal character of occupancy and the contingency of evictions has constrained a majority of encroachers from making any substantial investment in their lands, a certain degree of affluence with regard to amenities, was nevertheless evident. Ten percent of respondents had liquid petroleum gas (LPG) connections, fifty percent had electricity connections, twenty percent had telephone connections, and as a combination twenty percent had both electricity and telephone connections. LPG connections were common among encroachers with larger occupied extents or who also possessed patta land apart from the encroached land, both the mentioned factors contributing to a higher income. Electricity connections were procured either after 1990, or earlier in the case of encroachers with additional patta lands. The relevance of the post 1990 period emerges from the combination of a favorable tea and spice market, the subsequent monetary ability to gratify forest or electricity department personnel to obtain power lines and a general leniency within the forest department.\textsuperscript{144} Telephone connections exist only among encroachers with additional patta land or among larger encroachers. Fifty percent of encroacher respondents drew water from wells, thirty percent had

\textsuperscript{143} Field Notes, O'Valley (25-2-2002); Erumad, (16-4-2002) 
\textsuperscript{144} A few encroachers mentioned the fact that an electricity connection entailed monetary gratification of Rs. 2000 upwards.
individual pipeline connections and twenty percent had access to streams and swamps. Gaining access to amenities has also remained a guarantee in the future contingency of evictions. Electricity, pipeline or telephone connections are submissive in a court of law as evidence of occupation and possession of land.

4.6.6 Income, Education and Electoral Participation

The cash crop economy that encroachers partake in through cultivation and labour has largely been responsible for a relative affluence. The majority encroacher category i.e. occupying lands up to 3 acres, stated annual incomes ranging from fifteen to twenty five thousand rupees per annum. Larger encroachers reported incomes up to fifty thousand rupees per annum. Respondents also referred to the fluctuating character of tea and pepper based income specifically with reference to the pre-1999 period, which was characterised by a tea and spice boom.145 The fluctuating, albeit assured, income has also resulted in certain educational achievements. Ninety percent of encroacher children had either completed or were in the process of completing primary and secondary education. All respondents have exercised their voting rights. The substantial participation of encroachers in the electoral process has been the result of an anticipation of land regularization and an effort to gain legitimacy, if not as occupants, as voters.146

145 While a Kilogram of tea leaf was sold for five to six rupees during fieldwork, the same quantity fetched eighteen to twenty rupees before the market slump since 1999.
146 Interview with representatives of the DMK, Communist, AIADMK, TMC and the Paatali Makkal Katchi (PMK)

The general absence of any exclusive patterns of encroachments on the basis of language or religion, and the resultant heterogeneity, has ensured an organic or effective cohesion among encroacher-farmers. This corporate form, in its immediacy, accrues from the exchange of economic favours, both pecuniary and productive, and social participation in cultural events and livelihood exigencies. All respondents affirmed reciprocity in terms of working in each other's fields for wages and upon occasion assisting in cultivation and in activities such as thatching or repairing homes, where such activities remained constrained in terms of monetary remuneration. Monetary exchange also remains common in terms of borrowing and lending cash. All respondents referred to the absence of any overt identification in terms of caste, language or religion. While most farmers took for granted such cohesion or mentioned the same as a matter of fact, other farmers referred to an organic rationale behind the apparent consensus. Here reciprocity and solidarity are considered as being consequential to the dictates of communal and economic dependence, whereby for instance 'paths had to be cleared', and 'marriage and death ceremonies had to be conducted'. The futility of differentiation or non-participation was emphasized, given its potential negation of the very purposes for which migration and occupation took place, namely, 'to make a living' and 'to survive'. Further, people have 'stayed and struggled together' and 'survive with difficulty' and do not have any time for discord. 147 This livelihood ethic and the resultant cohesion, is however more comprehensible in an instrumental tenet that anticipates dispossesssion by the government. Here the common identity as 'encroachers' and the contingency of

147 Both Tamil and Malayalee respondents mentioned this 'settle-livelihood' ethic.
individual or group evictions accounts for cohesion. Any religious or caste discord would undermine the 'patta cause' and it is this 'patta situation' that brings about solidarity. While the contingency of evictions has been the initial premise for cohesion, it contemporarily remains an assuaged, albeit latent, premise. Cohesion is presently more evident in routinized reciprocity that emerges from economic exigencies.

4.6.8 Legal Identities

The persistence of encroachments in reserve forests, reserve lands and section 17 forests for over two decades, despite intermittent phases of eviction, has entailed, besides peasant resistance, certain political and legal contexts. While such contexts have constrained the forest department from initiating evictions, they have also restrained the revenue department from regularizing encroachments. Politically, the government after suspending evictions since 1982 as a consequence of peasant protest and resistance has not been able to resume evictions. Neither has the government been able to regularize occupancy as is evident in the fact that eighty percent of respondents had applied for patta. Revenue records corroborate responses and reveal the presence of nine thousand patta applications. The legal constrains in evicting are evident in encroacher possession of legally admissible documents and encroachers' participation in legally circumscribed inquiries. Malayalee encroacher-respondents in janamam reserve forests, reserve lands and section 17 forests were in possession of fabricated 'pattom' receipts. Ninety five percent of respondents paid house tax and thirty five percent paid land tax or were 'booked' by the village office, such taxes or fines solicited by encroachers. Respondents who had not paid land taxes cited the lack

148 Pattom (rent) receipts were issued by janmam to tenants. Such receipts are not logically valid in non janamam lands or among Tamil encroachers.
of affordability to bribe officials. Thirty percent of respondents, predominantly in reserve lands, attended enquiries by the forest settlement officer. Twenty percent had appealed in the district court against settlement inquiries or filed writs and stay applications in the high court against possible evictions. This politically and legally saturated milieu, characterised by a continued presence of ‘legally’ idiosyncratic farmers in forests and the inability of the government to evict them, is corollary to the Tamil Nadu government’s initiation of regularization of occupancy, and attempts at conservancy, in janmam and non-janmam lands through the janmam legislation and other specific land enactments and the subsequent encroachments, evictions, litigation and judicial interventions. The ensuing section delineates the political and legal contexts of encroachments, deforestation and peasant resistance over forest control in janmam and non-janmam forests.

4.7. Political and Legal Contexts of Deforestation, and Peasant Resistance.

4.7.1 Encroachments, Regularization, and Evictions in Non Janmam Forest Lands.

Prior to the regularization of encroachments in janmam lands after 1974 as per the Janmam Act, encroachments by farmers from Kerala in non janmam revenue forests in the erstwhile Pandalur sirkha had been regularized under two separate schemes during 1964-1965, 1971 to 1974 and up to 1978. Encroachments in non-janmam forestlands and their regularization are crucial to understand why janmam forests were colonized after the notification of the Janmam Act in 1974. During the first phase, upon the report of revenue board and forest officials, encroachments existing

for a period of five years from 1-7-1959 in revenue forests, were regularized. In the second phase, encroachments influenced by patta grant in the previous phase, were regularized in 1971. Further, encroachments that transpired till 1971 were regularized during the period 1975 to 1977. A total of 5,581 encroachments were regularized to an extent of 5890 acres. 94 per cent of encroachers who received patta were of Malayalee origins. Evictions that were initiated during 1971 to clear new encroachments in revenue lands handed over to the forest department for plantations, ceased in 1973. The decision to discontinue eviction operations was taken against a background of linguistic politics entailing protests by the Kerala government, and subsequent negotiations with the Tamil Nadu government. Thus, evictions of occupations that took place after June 1971 were temporarily terminated by the then AIADMK government, after Kerala based political leaders belonging to the Muslim League, the Communist party, the Congress and its break away factions visited evicted sites in Gudalur, and submitted memorandums to the respective state governments and the central government. The forest department’s attempts, in the interim, to raise captive bamboo and eucalyptus plantations in lands handed over to it from the revenue department, were resisted by farmers organised under a farmer’s association formed in December 1972 and called the ‘Gudalur Karshaka Samarakshana Sangam’ (G.K.S.S.). The destruction of plantations in February 1973 led to a new phase of evictions that witnessed a substantial exodus by farmers across the border to Kerala. The subsequent politicization of the issue by Kerala based

150 G.O. MS. No. 1035 Revenue dt.4-4-1964.
154 Interviews with political leaders.
155 Interview with a lawyer of Syrian Christian origins who was also the secretary of the Farmer’s Association.
156 Oral history interviews with Syrian encroacher-farmers in non jamnamin reserve forests and lands in the Bitherkad range; Indian Express, March 1st to 10th, 1973.
parties, protests by politically disposed members of the church, and latter negotiations between the respective governments and revenue ministries, culminated in the then DMK government’s accession to regularize encroachments that took place before June 1971.\textsuperscript{157} The liberal predilection of Tamil Nadu politics towards regularizing occupancy in non-\textit{janmam} lands in Gudalur and the decision to abolish the \textit{Janmam} tenure and introduce ryotwari patta, provided the impetus for further encroachments in \textit{janmam} lands.


After the notification of the \textit{Janmam} Act in 1974 after a five-year delay that resulted due to planter litigation, proceedings were initiated under various sections as provided by the Act. With regard to encroachments and forests the relevant sections remained, section 29(a), section 8, section 10 and section 53.\textsuperscript{158}

\textit{Section 2(4)}: Defines forests. Here "forests" includes waste or arable land containing trees, shrubs or reeds. In explanation 'A forest shall not cease to be such by reason only of the fact that in a portion thereof, trees, shrubs or reeds are felled, or lands are cultivated, or rocks, roads, tanks, rivers or the like exist'.

\textsuperscript{157} The role of \textit{Fr. Joseph Vadakkan} who also headed the Karshaka Thozhilali party viz. Agricultural Labourer party is instructive in its political contours. Fr. Vadakan
\textsuperscript{158} The \textit{Janmam} Act, 1986 (as modified upto the 30\textsuperscript{th} June 1985), Law Department Government of Tamil Nadu.
Section 9: Provides for grant of ryotwari patta for tenants of Jammies. Tenants were required to prove cultivation for a continuous period of three years before 1st June 1969.

Section 10: Provides for grant of ryotwari patta for encroachers viz. non-tenants, on the basis of personal cultivation ascertained by a cultivation test entailing the cultivation of land for a continuous period of three years before 1st June 1969.

Section 53: The section deals with forests, wherein, if questions arise whether any land is a forest or is situated in a forest or over the limits of a forest, the settlement officer shall decide such questions. The section also stipulates for appeals against decisions before the Director of settlements.

Subsequent to surveys conducted after the janmam Act’s notification in 1974, settlements were initiated in 1976. Accordingly, 2,565 tenants were granted pattas over an area of 5178 acres under section-9, and 1271 encroachers were granted patta over an area of 1,445 acres under section-10. Further, an extent of 12,781 acres was transferred to the forest department under section 53 of the Act during 1977-1978. Forests in the Devala village comprised the largest share in terms of transfer, whereby, around 8340 acres were notified under section 53. In other janmam villages, 1672 acres were notified in Padanthara, 844 acres in Gudalur village, 957 acres in Cherangode village, 523 acres in Cherumulli village and 371 acres in Sri Madurai village. Thus, combined with an extent of 13,314 acres already transferred to it by the revenue department, the forest department had under its jurisdiction a total of

159 Patta Distribution Registers of Gudalur Taluk, JF, NRR.
160 Register Showing the Particulars of Janmam Lands Declared as Forests Under Section 53 of the Act 24/69, JF, NRR.
26,096 acres, as on 1976-1977. However, around 5944 acres of section 53 lands were given to the TANTEA Corporation for conversion into tea plantations to rehabilitate Tamil repatriates.

Even as settlement proceedings were initiated during 1977-1978 under sections 9 and 10, and lands were notified as forests by settlement officers under section-53, farmers from neighboring regions of Kerala such as Nilambur and Wynaad, and Tamil repatriates, gradually began occupying section 53 forests. During this phase, section-17 lands were also encroached upon. Despite evictions having been carried out in all forest ranges, events in the Gudalur range during this phase are most instructive. Among section-53 lands, those lying in and around the Cherumulli and Sri Madurai villages in the north of Gudalur remained most susceptible to occupation by Syrian Christian encroachers, most of whom were from the Pulpalli region of Wynaad, which was a popular host locality in north Malabar during the 'Wynaad migration' by Travancorean farmers. Lands in Cherumulli and Sri Madurai were encroached or bought from Chettis who traditionally inhabited these villages and Syrians who had occupied lands earlier. Encroachments in the Sri Madurai region were usually based on information through informal networks with earlier Syrian settlers whose sizeable presence is evident in the fact that around 37 per cent of farmers who received pattas under section 10 in the region during 1977 were Syrian farmers. Large-scale resistance during the 1973 evictions and the requirement of 'effective' action necessitated a well-orchestrated eviction operation comprised of a

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161 Interviews with farmers in Reserve forests and Lands in Pandalur range and oral histories of farmers in reserve forests and lands in the Sri Madurai beat of the of Gudalur range.
162 Oral histories of, and interviews with, Syrian Christian farmers in reserve forests and reserve lands in the Sri Madurai beat of the Gudalur forest range.
163 Ibid; Beneficiaries List u/s 8 and 10 of the Act 24/69, Submitted to the Collector of the Nilgiris, undated, JF. NRR.
substantial presence of police, revenue and forest officials. However the operations that began on the 4th of October 1978 ended abruptly on the 8th, after a Syrian farmer, Louis, who was evicted from lands he had occupied in 1972, immolated himself outside the Revenue Divisional Office in Gudalur town.164 A hartal, political meetings on 'all party' platforms, a public funeral, protests by ruling and opposition parties in Kerala, and a visit, six months latter, by the political head of the then AIADMK government, to the Louis household, lead to a further capitulation of the government on the regularization front. Liberalizing the provisions of the Janmam Act, encroachments that existed as on 30-6-1977 were regularized.165

Evictions resumed in 1981, as new encroachments continued unabated and existing settlers expanded their holdings. A total of 3,324 acres of forestlands were under occupation, of which 1544 acres were janmam lands with forest cover and 1780 acres were non-janmam lands in possession of the forest department for afforestation. Despite section 53 lands being notified under section 26 of the Tamil Nadu Forests Act in 1978, the forest department did not assume effective control over the mentioned lands.166 Such ineffective control, along with a liberal predilection of the government for issuing patta, and the presence of fertile lands with valuable timber, encouraged colonization, clearance and cultivation. The 1981 evictions revealed an enhanced government resolve than had characterised precedent eviction operations. Neither had the previous operations succeeded holistically in their stated intent to

164 Oral history of Louis' kin; The Hindu (Chennai), October 9th, 1978.
165 Vide, G.O. Ms. No. 1148, Forests and Fisheries Dept. dt. 21-12-1978; Interviews with Louis' kin reveal that 28 other farmers and families in and around Sri Madura benefited from the patta grant ordered by the then chief minister Mr. M.G. Ramachandran.
166 Under clause 'a' of section 33 of the Tamil Nadu Forests Act, 1882 (Tamil Nadu Act V of 1882), lands are undertaken for management as forests by the government. Section 53 lands were notified under the Tamil Nadu Forest Act on July, 1978 vide. Gazette Notification, The Nilgiri District Gazette, Ootacamund, July 9, 1978.
clear encroachments, nor had they acted as a deterrent to future occupation. The Tamil Nadu government, anticipating legal constrains in evicting encroachers under the Tamil Nadu Land Encroachment Act of 1905 that provided for evictions in revenue lands, as was experienced during the 1973 and 1978, amended the Tamil Nadu Forest Act, 1882 and introduced section 68-A. This section provided for the summary eviction of occupants in reserve forests and lands, and rules framed under the section required authorized forest and revenue personnel to serve notice to encroachers, returnable in a period of five days.\(^{167}\) Evictions commenced on June 1981 and were characterised by the clearance of crops and the planting of eucalyptus saplings. Houses under occupation were however spared.\(^{168}\) Political responses to evictions were immediate and assumed linguistic contours. Leaders across the political spectrum in Kerala paid obligatory visits to evicted sites, launched protests and requests with the Tamil Nadu government, and denounced alleged attempts to settle Tamil repatriates in evicted lands. Parleys were held between the Kerala chief minister and his Tamil Nadu counterpart.\(^{169}\) Evictions continued till mid August, resumed on September 13\(^{19}\) 1981, and called off on September 23\(^{nd}\) after a lawyer of Syrian Christian origins who was also the secretary of the farmer's association, and two other farmers, filed Writ Petitions in the Supreme court in. As on 1981 when evictions ceased, a total of 711 encroacher families in jannamam and non-jannamam forestlands covering an extent of 1,492 acres had been evicted.

\(^{167}\) The Tamil Nadu Forest Manual.
\(^{168}\) Interview with farmers in the Gudalur and Pandalur ranges attest to the fact of homesteads being left alone and crops being cleared.
\(^{169}\) Interviews with Political Leaders;
4.7.2.1 Writ Petition 1

The Writ, filed as a public interest litigation in the collective interests of Malayalee farmers and settlers of Gudalur, sought relief from 'unlawful' evictions and the destruction of coffee, tea, pepper and other crops grown on small-scale farms. Historically locating the prevailing events, the petition took recourse to the 'mistaken' inclusion of Gudalur in Tamil Nadu during the linguistic reorganization of states in 1956. The petition sequentially located linguistic 'discrimination' in the evictions that followed each patta scheme since 1968-1969. The D.M.K government's enactment of the Janmam legislation in 1969, and the decision to settle Tamil repatriates from Sri Lanka since mid 1970s, remained the petition's focus of contention. The revenue machinery installed to implement the provisions of the Janmam Act was, according to the petitioners, legally and linguistically inefficient and also corrupt. The petitioners sought ulterior motives in the provisions of the Janmam Act, specifically sections 9, 10, and 17. While poor farmers were bought under section-9 and 10, rich farmers were bought under section 17. This twofold division of farmers, the petitioners contended, was 'to avert the contingency of a united agitation of all Malayalee farmers against the Tamil Nadu Government'. Certain provisions of the Act, such as the stipulations for appeal under section-53 and the cultivation test under sections 9 and 10, were claimed to be constitutionally violative. While the provision for appeal in Section-53 'against the decision of the Settlement Tahsildar is of no avail to a poor farmer', the cultivation test entailing cultivation of land during the years 1966-1969 was irrational as enquiries began only 1977. With regard to evictions per se, the petitioners claimed civil rights abuses by the police and forest departments, whereby, 'an undeclared emergency' prevailed in

176 M.J. Cherian, Advocate and others Versus The State Of TamilNadu, in W.P. No. 7035 of 1981(henceforth W.P. 7035 of 1981), Supreme Court of India; Interview with M.J. Cherian.
Gudalur as bail were denied, and media persons and lawyers were intimidated by the official machinery. The petition cited instances of farmers, including the co-petitioners, being dispossessed of their crops and thus of their livelihoods. The section 68-A of the Tamil Nadu Forest Act, found special mention in the petition, vis-à-vis, its legality and its purported misuse by ‘chauvinistic’ forest officials. According to the petition encroached lands were revenue lands, but proceedings were undertaken under the Forest Act. Finally, the petitioners contended that the government was doing ‘indirectly’ what it could not do ‘directly’ by planting Eucalyptus Grandis, in and around farmlands, which would lead to water depletion and eventually compel farmers to leave.

The Tamil Nadu Government in its counter affidavit emphasized the migrant features of Malayalee encroachers and their intentions to ‘grab’ forestland. It referred to the fact that ninety four percent if beneficiaries of regularization schemes were of Malayalam origin. Evictions had been initiated only in lands handed over to the forest department by Settlement officers. Evictions were carried out only on forestlands under section 68-A, which was a special enactment pertaining to forests and has the effect of excluding any general Act relating to encroachments and evictions. The procedures under 68-A were not constitutionally violative and were intended to protect and preserve forests. The procedures prescribed under the section were properly followed and notices had been issued to encroachers. The affidavit further claimed that arrests pertained to acts of violence and not encroachments. The affidavit also maintained that the definition of forests in the Jannam Act though ‘deemed’, was reasonable. With regard to the planting of Eucalyptus Grandis, the affidavit claimed that there was no scientific data or proof to establish allegations of encroachers.
Finally, the Court, in September 1981, passed certain interim instructions to the Tamil Nadu Government, restraining it from evicting settlers in possession of lands or from clearing crops.

4.7.2.2 Writ Petition 2

Six months later in March 1982, a local Chetti from Sri Madurai who was also the President of the ‘Kannada Sangham’, and two other farmers from the Cherangode village filed another Writ Petition. The petition was filed in a representative capacity on behalf of Kannada farmers in Gudalur. Citing respective rights over their lands that largely ensued from inheritance and substantial period of cultivation, the petitioners mentioned attempts made by the forest department to evict and plant Eucalyptus Grandis. The petitioners requested the court for the issuance of any appropriate writ against the Tamil Nadu government. The latter contested the allegations of the petitioners in their counter affidavit. The counter appraised each petitioner individually and made a case for evictions given the encroachment of forest lands by petitioners and the falsity of their possession and cultivation claims. Even as the court granted an interim stay against crop clearance and evictions, another farmer of Syrian origins from the non-jamam village of Erumad filed a Writ Petition in the Supreme Court in an individual capacity.

4.7.2.3 Writ Petition 3

Identical to earlier petitions in most of its contentions, the petition claimed that the farmer and his family had migrated during the Grow More Food Scheme and benefited from the regularization schemes in the 1960s. The D.M.K government’s

171 W.P. 5543 of 1982, Krishnan Chetty vs. the State of Tamil Nadu. The co-petitioners were Srinivasacharry and Nanjunda Gowder from Cherangode Village.
172 Writ Petition No. 5612 of 1982, Sebastian Vattalil vs. the State of Tamilnadu.
advent in 1967, the petitioner contended, led to linguistic discrimination. The petition claimed that on September 21st, 1981, foresters, police officials and Tamil repatriates destroyed his tea garden. The petitioner further claimed that having invited people like his family to settle in Gudalur, the Government is 'estopped' under principles of promissory and equitable 'estoppel' from evicting farmers from cultivated lands without compensation. The court issued an injunction, restraining officials from entering the lands under the petitioner's occupation or from planting any trees.

In its counter affidavit, the government claimed that most encroachers like the petitioner's family migrated to Gudalur as the region was rich in mineral and forest wealth. The affidavit also revealed a strategic rationale for notifying non-janmam lands as forests. Accordingly, the government stated that 'settlers enamored by of the forest and mineral wealth, copiously spread all over the area and made it a business to illicitly cut and remove big and valuable trees and extend the occupation rapidly either by themselves or by their own kith and kin in Kerala'. According to the government this was a significant reason for the notification of 'unreserved' forests under section 4 of the Tamil Nadu Forest Act. The persistence of encroachments even in notified forests necessitated that evictions be undertaken as a 'tangible' measure to protect forests. Claims by farmers like the petitioner were rejected due to a lack of records. The government also asserted the scientifically unsubstantiated nature of the claim that Eucalyptus Grandis absorbed the moisture content of the soil. Finally the government submitted that 'having been accustomed to the regularization of encroachments and as there was no resistance to encroachments in the past two decades, it has become a profitable trade and tantalizing proposition for encroachers and vested interests to agitate invariably against any eviction'. The interim injunction
granted against evictions, the government further submitted, has created an impression among encroachers that they can have their occupations regularized.

4.7.2.4 Dismissal of Petition and Directions to the Government

Upon a contempt petition filed by the lawyer and Farmer Association Secretary, M.J. Cherian, to the effect that the court's interim orders had been violated consistently, the court appointed a commission headed by a District Judge who was to report to the court on whether its orders were being complied with. Upon obligatory inquiries conducted with sixteen farmers whose crops were alleged to have been cleared or who were allegedly evicted, the commission concluded that neither were crops cleared nor were farmers evicted subsequent to the Court's stay orders dated 23-9-1981. Dismissing the contempt petition in April 1982, the court stated that the interim relief granted to farmers would continue till the final disposal of the petitions. Finally in 1988 the Supreme Court dismissed all three petitions. The interim stay on evictions also stood vacated therein. The court however gave certain directions to the Tamil Nadu government, namely, that

'the petitioners who are in possession of the lands, will be at liberty to make representations for granting them the land in their possession by pattas on humanitarian and compassionate ground. Such representations shall be considered with sympathy and they may be accommodated to the extent possible if it can be done without violating any provisions of law or violating and scheme for resettlement framed by the competent authority'.

172 The 'Nanjappa' Commission named so after a Coimbatore District Judge who headed it, commenced on 20-11-1981.
The Court also made a provision for petitioners to make representations within three months from 28-1-1988. During the hiatus between the Supreme Court’s stay in 1981 to its dismissal of petitions in 1988, reserve forests, reserve lands and section 17 forests had further been encroached and expanded upon by farmers from Kerala, and Tamil repatriates. Including such encroachers, a total of 9113 applications for patta were received in 1988 by a Special Deputy Collector who was appointed to process patta applications. Farmers either personally submitted patta applications or presented them to a priest who was also the President of the ‘Gudalur Eviction Case Committee’. The post of the Special Deputy Collector was however disbanded by the incumbent government. In 1990, the Gudalur Farmer’s Association filed writ petitions in the Madras High Court for a direction to the state government to implement the Supreme Court’s orders. In 1992, after a cabinet decision, the post was revived and special personnel were sanctioned for patta collection and verification. Subsequently, revenue and forest department personnel conducted a perambulation of forests mentioned in the applications. Though perambulation was completed towards the end of 1993, neither have occupations been regularized in reserve lands or forests nor have farmers been evicted till 2002. The inability to evict farmers or to regularize occupations is a matter of both an absence of political will, given a local history of resistance and future contingency of the same, and the prevalence of legal constrains. While this legal and political void, which has prevailed

174 Fr. Mathew Puthenparambil and other members of the Committee, for instance, from 21st to 24th April 1988, submitted patta applications gathered from farmers of Gudalur, Devala and O’Valley, to the Settlement officer, Coonoor.
175 W.P. Nos. 932 & 933 of 1990, Madras High Court. The petitions were however dismissed in July 2002, as the Tamil Nadu government during the interim, had resumed patta processing in 1992.
for more than two decades, has significantly conditioned peasant resistance and strategies of resistance, its impact on the forest floor has also been considerable.

4.7.3 Legal Ambiguity, Ambivalent Control and Landed Anomaly: 1981-2002

4.7.3.1 Legal Ambiguity

The political projects of land settlement and forest conservancy in Gudalur have been rendered legally ambiguous. While section-10 of the Janmam Act manifestly allowed encroachers to claim patta, it also provided incentives for the same, and forests were occupied as a speculative enterprise. A protracted litigative phase for over seven years culminated with judicial instructions to the government to consider regularization. This legal leeway has been rendered further ambiguous by a litigative disposition among encroachers evident in the appealing against settlement enquiries in quasi-judicial and judicial bodies dealing with the Janmam Act. Encroacher have also preemted evictions by filing writs, and sought to gain possession over lands by filing false cases. Interview responses reveal that twenty percent of the respondents had either approached the district court and appealed against the Forest Settlement Officer's orders, or had filed writs in the Madras High Court against potential crop clearance or eviction. Syrian Christian respondents in janmam and non-janmam reserve forests and reserve lands do not rule out the possibility of initiating further litigation, which at the moment remained economically unfeasible given a bad tea and spice market. Appeals, in the High Court, which serves as a Special Appellate Tribunal (S.A.T), in the district court, which serves as the Janmam Abolition Tribunal (J.A.T), in the Land Administration and the Survey and Settlement offices, and in the settlement offices, were common. In such an 'appeals machinery', adverse decisions
in each forum beginning with the Assistant Settlement Officer, could be appealed against in higher forums. More commonly in section 17 lands, and to a certain extent in janmam reserve lands and forests, ‘bigger’ encroachers had filed false cases in the local and district courts against existent or non-existent individuals over lands already occupied, or identified in terms of legal status and survey numbers. Such litigative strategies serve two, albeit mutual, purposes, namely, to gain injunctions from the court against future or possible evictions or gain de facto possession over lands. However litigation requires petitioners and plaintiffs to be in ‘a-priori’ possession of documents pertaining to the Janmam tenure. Documents, ostensibly pre-1969 agreements with the Nilambur Kovilagam, were duplicated in their calligraphic characteristics in classical Malayalam. Such fabrication took place in printing presses in Nilambur. Among Syrian encroacher respondents in janmam lands, the possession of such fabricated documents were commonplace, such documents submitted to various courts as evidence of possession and cultivation before 1969. Tamil respondents, who logically cannot use forged documents from the Kovilagam given their statuses as post 1973-1974 migrants, however, acknowledge the existence of fabricated documents and ‘brokers’ who facilitate their acquisition. In one instance, a Syrian Christian respondent who had purchased encroached lands in O’Valley, submitted ‘lease’ documents to the local court after he had been legally proceeded against by another individual with claims over the said land. In another instance a Tamil farmer in a reserve land in the Pandalur forest range, along with others in the vicinity, had been legally proceeded against by an anonymous individual.

177 Suit Registers, 1981 to 1994, Supreme Court Matters, J.F., N.R.R. Appeals in the J.A.T have been constant, where for instance there were 44 appeals pending, till the early 1990s. Till 1994, 25 writ petitions were pending in the Madras High Court. In the Munisiff court in Gudalur land related litigation remains prosaic.

178 Interview with legal practitioners, forest department officials and subordinate personnel.

179 Interviews with Tamil respondents in Pandalur.
who claimed possession over fifty acres of land. Bigger encroachers, including Syrians Christian, Moplahs and Tamils in section-17 lands in O’Valley and Padanthorai have also obtained ‘possession certificates’ from Village Administrative Officers (VAO) since early 1980s, and have sought and gained court injunctions.\textsuperscript{180}

Lower courts, in Gudalur and Ooty, have remained liberal in admitting land related litigation on the basis of fabricated evidence. More frequently, going strictly by the tenets of law, possession over land is granted on the basis of admissible evidence of inhabitation and cultivation. While legal practitioners exercise their expertise in the normal course in Gudalur, their provision of legal services to encroacher clientele has complicated the legal uncertainty. This ‘rational’ practice of law notwithstanding, government counsels, who are usually political appointees, have at times sold the state’s interests short. It is claimed that state counsels do not appear in court for certain cases, in which event the litigation goes for default, resulting in ‘interested’ parties in the conflict gaining possession over the encroached land. In 2002 the Gudalur forest department officially protested the appointment of a ‘Government Pleader’ who was alleged to have encroached section-53 lands in Devala, which were yet to be notified as reserve lands.\textsuperscript{181} The department, in its protest communiqué to the government, provided evidence for the lawyer’s holding of brief for encroachers in Devala and Padanthara.\textsuperscript{182}

\textsuperscript{180} Fact Finding Report into the Land Situation in Gudalur Taluka, Nilgiris District’, Peoples Union For Civil Liberties (PUCL), 2002, pp.5-6; Interview with Moplah encroacher- farmer in HII’s section 17 lease in Padanthorai.

\textsuperscript{181} Field Notes of discussions with Foresters, Guards, and Forest Clerical Staff; Interview with Lawyers; Interviews with NGOS; ‘Fact Finding Report into the Land Situation in Gudalur Taluka, Nilgiris District’, (PUCL), 2002, pp. 9-11.

Legal ambiguity in Gudalur has since 1996 augmented in its condition as a consequence of the Supreme Court’s interim orders in 1996.\textsuperscript{183} Even prior to the interim orders, regularization in Gudalur has always remained unfeasible as it contravenes the Forest Conservation Act, which bars the conversion of forests for non-forestry purposes. This is evident in the recommendations of the of the Land Administration Office to the Office of the Revenue Secretary in 1993, which classified encroachments in reserve forests and lands as ‘objectionable’, and suggested the possibility of settling encroachers in alternate lands.\textsuperscript{184} The Supreme Court’s interim orders, which clarified the description of forests as any area ‘recorded as forests in Government record irrespective of the ownership’ and its caveat that its orders on conservancy remain operative notwithstanding any order made in variance or already made by any judicial or executive authority, renders regularization a legal infringement of the said orders. In this context the government, considers patta grant as a non-issue at least for the ‘time-being’.\textsuperscript{185} Further in section-17 lands encroachers cannot get patta as under Janmam Act as they are not ‘lessees’ as provided in the section.

4.7.3.2 Ambivalent Control

Legal ambiguity in Gudalur has fostered ambivalence over forest control, entailing the forest department’s inability to pursue its prerogatives, whether legally and fiscally strategic, or desiccationist. The revenue and forest departments temporally locate the attenuation of their control over forests to Louis’ immolation in 1978 and Cherian’s

\textsuperscript{183} Vide W.P. 202/1995.
\textsuperscript{184} Vide letter No. 67985/85 T1, Dt. 18-9-1993. R.D.
writ petition in 1981. Out of an approximate extent of 23,537 acres handed over to the forest department, only an estimated extent of 5954 acres has been notified as reserve forests. Thus, during the duration of nearly two decades viz. 1978 to 2002, only 25 per cent of forests have been notified as reserve forests. Combined with ambiguities circumscribing the forest settlement process in Gudalur, elaborate legal procedures encoded in the Tamil Nadu Forest Act 1882, in notifying a forest as 'reserved', has effectively rendered forests as ambivalent zones of control. While the janmam appeals machinery is multi layered, once notified under section 4 of the Forest Act, a forest has to traverse 12 other sections before being notified as a reserve forest under section 16. Further, delays in notification of section-53 lands and revenue lands as reserve lands, also complement the uncertainty. Encroachments and protracted process of enquiry and settlement by the FSO, in many instances, has lead to janmam forests being notified as reserve lands as belatedly as late 1980 and early 1990. With regard to non-janmam lands, which were given to the forest department in the early 1970s, the notification as reserve lands has occurred as late as 1998. As on 1995, forty-two janmam and non-janmam forest tracts were still awaiting notification as reserve lands, and 103 janmam and non-janmam forest tracts were awaiting notification as reserve forests. The area circumscribed by this legal procedure involved 22,681 acres of forests. Of 145 forest tracts involved in various stages within the appeals hierarchy, 77 tracts, covering an extent of 17,080 acres, were subject to the FSO's orders. Further, such orders have remained unfavorable to the forest department. Till 1993 the FSO had allowed 113 patta claims of which 63 encroachments were spread over 145 acres that lay within forest blocks or at the

186 Field notes on discussions with forester of Gudalur range, and guards of Gudalur and Bitherkad Range; Copy of letter No. 6798/85 T1, Dt. 18-9-1993 from SCCLA to Revenue Secretary, pp.15, R.D. 187 Reserve Land and Reserve Forest details, G.F.D. 188 Details of forestlands in various stages of enquiry, GFD.
peripheries. During this period the DFO had filed appeals over an area of 260 acres, even as encroachers themselves had filed appeals over an extent of 715 acres.\textsuperscript{189} The forest department’s appeals against FSO orders have remained a common phenomenon.\textsuperscript{190} The popular and persistent contention among encroachers, of terming section-53 and reserve lands as revenue lands, is facilitated by such delays in reserve forest notification. This ‘revenue’ contention also finds legal latitude, where for instance legal representatives of encroachers state that ‘forest people claim land to be forest, but we will say it is revenue because revenue land in order to become forest, certain stages need to be undergone, that is, according to section 4 of the Tamil Nadu Forest Act’.\textsuperscript{191}

Even as certain encroachers remain unaware of forest rangers who in turn, inform ignorant encroachers that they are ‘rangers’ in charge, guards and watchers interact with most farmers at personalized levels, which the latter reciprocate.\textsuperscript{192} Further, encroachers have acquired certain ‘moral’ credentials as old inhabitants due to a temporal lapse accruing from continued occupancy and curtailed state control. Forest subordinate personnel remain co-opted by farmers in their everyday interactions that have fostered familiarity and subsequently, acquiescence to encroachers’ moral credentials. The obeisance of subordinate forest personnel to the ‘moral credentials’ of farmers is evident in the difficulties attributed by guards to the handing over of 68-A notices subsequent to the notification of lands as reserve forests. In such a scenario it is claimed that farmers confront guards with the query ‘What right do you have to

\textsuperscript{189} Copy of letter No. 67985/85 T1, Dt. 18-9-1993 from SCCLA to Revenue Secretary, R.D.
\textsuperscript{190} Interview with DFO.
\textsuperscript{191} Interview with lawyers.
\textsuperscript{192} Field notes (18-12-2001), Cherambadi.
convert our lands into RFs?\textsuperscript{193} This 'morally' tenuous situation among guards notwithstanding, in certain instances they attribute morality to small encroachers by sympathizing with their subsistence. Further the fact that evictions, in the post 1999 period, were initiated selectively only in larger and post 1996 encroachments in section-17, attests to the lack of authority and consequently the absence of any substantial constraints faced by farmers due to forest department actions. Here farmer responses are instructive, whereby 94 per cent only referred to the absence of patta, the resultant insecurity and inability to avail of agricultural loans from government and banks as the real problem, and not just the intermittent uprooting of fresh tea saplings. Respondents also mentioned that the fact that patta would free them from intermittent crop clearance. There remains a consensus over the fact that eviction and displacement related exigencies had ceased since 1982. Ambivalent control notwithstanding, the resultant ecological and legal anomaly that characterizes reserve lands and forests, in terms of vegetative characteristics and an alternative land possession and production regime, respectively, has made forestry difficult.

4.7.3.3 Landed Anomaly

Legally, most notified forests exist only per records. Though quantitatively only 17 per cent of reserve lands and 8 per cent of reserve forests have been encroached, the remaining portions are not free from anthropogenic influence, as encroachments are not spatially concentrated in clusters. Apart from a few notified tracts with forest cover and continuity, which have been fenced or regularly patrolled, the majority of forest tracts remain undersized to be of any ecological, and thus, protective significance. Ecologically, smaller forest tracts either remain degraded or are

\textsuperscript{193} Field notes (12-4-2002), Ayyankolli, Bitherkad.
occupied and resemble agro-forests encompassing poly-cropped fields interspersed with residual natural vegetation. The contrast between encroached fields and unoccupied degraded forests is more evident in non-janmam revenue forests. The constraints of evictions have rendered forests legally and ecologically anomalous whereby section-53 lands were notified as reserve lands with encroachers in them and further, such occupied forests have been notified subsequently as reserve forests. Thus out of 148 reserve land blocks notified as reserve forests till 2001, forty-seven had been notified with encroachments. Further, reserve lands and forests reveal certain spatial anomalies with regard to physical extents. Of 88 forest blocks notified as reserve lands, 22 blocks were less than 5 acres, and 16 blocks were less than 2 acres. The smallest reserve land block formed less than half an acre. Seventy-eight out of 148 reserve forest blocks measured less than 5 acres. Of these reserve forests, 51 measured less than 2 ½ acres. The smallest reserve forest block measured less than half of an acre. The reserve lands and reserve forest regime in Gudalur remains highly fragmented. The evergreen forests of Pandalur and Devala and the moist deciduous forests of Sri Madurai, at present remain either discontinuous or totally altered in their character. For instance in the Puliampara region of Devala, the landscape is a blend of farmlands with tea, vegetables, arecanut, plantain and jack trees, and sparse 'forest' trees such as teak and rosewood. In Sri Madurai, apart from forests adjoining the Mudumalai National Park, silver oak, pepper, coffee and arecanut have almost replaced other forests in the interior. In non-janmam lands, which remain more fragmented in terms of the number of individual notified reserve land and forest blocks, spatial anomalies are more evident. While most forests, given

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194 Viz. the Hirithini Reserve Land Block (Survey No. 3/2) in the Mangodu beat of the Cherambady forest range.
195 Viz. the Kanayamvayal XIV Reserve Forest Block (Survey No. 202/107) in the Kotadu beat of the Bitherkad forest range.
196 Field notes (1-4-2002), Sri Madurai.
their historical character as wastelands handed over to the forest department, are
either degraded savannah or eucalyptus and bamboo plantations, in their notified
statuses they remain unidentifiable. This condition characterizes both large and small,
notified tracts. The instance of reserve forests in the Bitherkad forest range is
instructive of such legal and ecological incongruities and the consequent ambivalence
that arises from the notification of small extents. With 23 out of 68 reserve forests
remaining less than 2 acres, the forest department finds the identification of such
forests difficult. Foresters claim ignorance of the location of reserve forests measuring
less than one hectare. The intermingling of patta land, reserve land and reserve forest
borders, according to foresters, complicates attempts to identify small notified tracts.
Also contended was the futility of notifying small extents.¹⁹⁷ Larger notified reserve
forests also remain indiscernible to the forest department. For instance, in
Cherambadi, neither did the range office nor subordinate staff have any knowledge of
the location of a particular reserve forest measuring almost 65 acres. The village
administrative office and revenue inspectors were consulted.¹⁹⁸

The above stated anomaly notwithstanding, such a condition also emerges from the
fact that encroachers have established a de facto possession regime during the hiatus
created by legal ambiguity, and due to the consequential ambivalence. As already
noted, the prevalence of a possession regime is facilitated by revenue fines, receipts,
fabricated rent and lease documents, patta applications, and the general status as a
constituency covered by the court’s directions. The resilience of this unofficial land
possession and production regime is evident in the generally unrestrained poly-
cropping pursuits of farmers, where material exigencies only seem to arise from an

¹⁹⁷ Field notes (8-4-2002), Bitherkad.
¹⁹⁸ Field notes (18-4-2002). The Murkkamarval reserve forest block (Survey Nos. 2B/39, 2B/154,
213/148, 213/149, 2B/46) was notified in 1993 with 12 encroachments measuring 2 ½ acres.
assuaged tea and spice market. Even the forest department pays obeisance the presence of this 'shadow' economy, albeit in its productive manifestations. Forest guards, for instance, attribute an 'encroacher silviculture'. Working plans also compliment 'a rural population with education and sophistication'. This 'industrious and enterprising' population, despite the hilly tract, has 'risen up to the occasion and perfected agriculture in a laudable manner'. Further, 'lush and green farms studded all over can never be missed'. Certain other factors grant legitimacy to the de facto possession-based economy. Encroachers partake in the 'small grower' economy, which constitutes the mainstay of the tea industry in Gudalur in specific, and Nilgiris in general. Encroachers also form part of the classifications by the horticultural department of farm families as 'small', 'marginal' and 'big' farmers. Encroached extents have been included in the department's classification of lands holdings as small, marginal and big. Annual yields of perennial and seasonal crops obtained or projected by the horticultural department is inclusive of yields obtained in cultivation of forest lands.

The conditions of legal ambiguity, ambivalent control by the state and landed anomaly have substantially conditioned peasant resistance. While overt peasant resistance had been partially responsible for the initial emergence of legal ambiguity, a latter course of covert resistance has augmented its consequences, namely, the condition of rendering forests anomalous. The trajectories, strategies, and characteristic idioms of peasant resistance, and ideologies of resistance as construable from resistance strategies and overtly contended, are clarified in the final section.

Field notes (3-4-2002), Sri Madurai. According to guards, such silviculture entails, encroachers initially planting lemon grass, constructing treestop houses in fear of animals, and felling that very tree to distill lemon oil. Subsequently ginger is planted, and after its harvest, permanent crops such as tea are rested.

Working Plan, Gudalur Division, 1-4-1987 to 31-3-1997, pp. 45.
However prior to a discerning of peasant resistance strategies, state strategies shall be clarified and discerned for the basis of its conservancy.

4.7.3.4 State Strategies to Surmount Legal Ambiguity, Ambivalent Control and Landed Anomaly.

In a department that compliments peasant estimations of the forest problem as requiring legal redress, the state has come to view encroached forests as purely legal realms. The subsequent requirement of rectifying ambivalent control has even found constituency in a typically 'scientific rational' document as the working plan. The first plan (1987-1997) stated that the 'legal position of the forests of this division is not very conducive to easy management', and that 'Due to encroachments and litigations, plantation works could not be undertaken freely'. While this plan invoked contingency whereby, 'as and when encroachments are evicted and the area is free from litigation such areas shall be utilized for plantings', the second plan (1998-2002) intently included litigation and legal control as its objectives. Thus, among the general objectives of management in this plan, was the prevention of 'forest land from being lost to encroachers', the reclamation of land 'already lost to encroachers' and the effective dealing 'with cases pending in various courts'. The treatment of encroached forests, both covered and otherwise 'by court stays and litigations', as purely legal spaces that have escaped the department's control is evident in the plan's demarcation of a 'consolidation' working circle. The objectives of this circle were to 'identify and locate all lands said to be under the custody of the forest department', resurvey, and identify encroachments; evict encroachments not covered by the Supreme Court's
stay and other litigations. More rhetorically, according to the department, forests exist only ecologically not legally.

The Tamil Nadu state’s attempt to rectify the anomaly arising from the presence of encroachments in notified forests indicates a legally strategic rationale rather than conservancy. For instance in 2001, the revenue department saw potential solution to ‘patta’ problems in jannam lands in the recommendations of the Land Administration Office made during 1993 after patta applications were scrutinized. Here, encroachments were classified according to persons in possession of lands prior to September 1981 when the Supreme Court granted its stay on evictions, those evicted during 1981, and those who have occupied forests after 1981. However 3872 applications from section 17 lands and reserve lands and forests, covering 2174 hectares have been classified as ‘objectionable’. While suggesting the rehabilitation of farmers in alternate lands whose claims have been allowed by the Forest Settlement Officer, the report noted the futility of regularizing encroachments as ‘it would result to total destruction of forests by the Government themselves as ‘encroachers would be tempted/compelled to expand their territory by occupying lands invisibly’. Consequentially, in the due process of regularization, eviction and land reclamation, the report anticipated resistance from encroachers who are constructed as rational and interested entities with a litigious disposition and even as a ‘law and order’ problem. According to the report, the 1978 evictions stopped after Louis’ immolation and encroachers ‘consolidated themselves and created an explosive situation since then’.

201 Working Plans 1 and 2, GFD.
202 Interview with DFO, Gudalur forest division.
203 Comprehensive Note for Discussion in the High Level Committee Meeting Convened by the Chief Secretary to Government on 21-07-2001 at Chennai, pp.6, R.D.
204 Copy of letter No. 67985/85 T1, dt. 18-9-1993 from the S.C.C.L.A, Chennai, to the Revenue Secretary Chennai: R.D.
205 Ibid, pp. 4-5.
While recommending an adequate police force to contain resistance, the report took cognizance of the fact that a spate of writ petitions would be filed and thus a proper legal machinery of government counsels be installed.\textsuperscript{206}

In 2001, recalling the 1981 evictions and resistance, the state sought to deploy a regular police force in Gudalur as 'there is ample scope for disturbance of law and order through road roko, and dharna' while evictions take place in forests. Further, there was the possibility of a 'combination of all divided forces to give a stiff resistance to eviction operations'. The possibility of 'land grabbers with financial background and muscle power' trying to 'gather all ignorant masses to protest', remained. The stationing of a permanent police force, according to the state was necessitated by the fact that encroachers reclaim evicted, which was a persisting problem in Gudalur. Further the government suggested that borders with the Kerala state to be scaled.\textsuperscript{207}

4.8 Strategies, Idioms and Ideologies of Peasant Resistance.

Peasant resistance over forest control in Gudalur, contemporarily remains covert and confined to furtive infringements of forest laws in reserve lands and forests, and assumes overt forms occasionally and usually in section- 17 lands where peasants are mobilized by politicians and more affluent encroachers. However, analysis reveals that the contemporary discretion of peasants in opposing the state has followed earlier phases of direct action, the consequences of which have facilitated the mentioned discretion. The precedent resistance phases can be traced to the period 1973 to 1983

\textsuperscript{206} Ibid. pp. 15-17.
\textsuperscript{207} 'Comprehensive Note For Discussion in the High Level Committee Meeting Convened By the Chief Secretary To Government on 21-7-2001, Chennai', R.D.
generally and more specifically the three eviction operations that transpired within this period, namely 1971-1973, 1978 and 1981-1982. The 1971-73 evictions were conducted in non-janmam revenue lands whose possession was handed to the forest department. Subsequent to the regularization of encroachments in 1971, the forest department began an afforestation scheme entailing the planting of eucalyptus and bamboo on empty lands and in instances on lands in the possession of farmers or lying in proximity. Evictions ensued as farmers uprooted saplings in protest. Protest also involved the participation in processions and the raising of anti eviction slogans, and volunteers from each household courting arrest. The forest and revenue departments' burning of houses in an incensed retaliation to the large-scale destruction of saplings through uprooting and setting fire, also effectively warranted the flight of farmers into surrounding forests and across the border into Kerala. Farmer agitations ceased after board of revenue members from Tamil Nadu and the Kerala revenue minister and members of the parliament came to an agreement.

The resumption of evictions in janmam forests during 1978, after farmers occupied lands transferred to the forest department under section 53 of the Janmam Act, witnessed both direct action and covert resistance, the former emerging influential in its consequences. In the villages of Sri Madurai, Devala and Puliampara, evictions were more intense given large-scale encroachments. Coffee plants, pepper vines, plantain and arecanut trees were cleared and felled by the forest department. In some instances houses were also destroyed. In Sri Madurai, the 'simultaneous' uprooting of eucalyptus saplings by women from their 'kai vasam' lands while the forest

\[208\] Oral histories and interviews of farmers in reserve lands and forests in non-janmam villages of Munanad and Erumad.

\[209\] Interviews with political leaders; W.P. 7035 of 1981.

\[210\] Interviews with Syrian and Tamil farmers in Puliampara and Sri Madurai.
department was planting them, led to the emptying of thatched houses and their subsequent destruction. Men folk took flight to forests as large-scale arrests ensued. Weeklong eviction operations ceased after an evicted farmer, Louis, submitted a petition to a revenue officer and immolated himself in front of the revenue divisional office in Gudalur town. His funeral procession from Gudalur town to Machikolly in Sri Madurai, was marked by a large-scale participation of farmers. The immolation had far reaching implications, in that it has remained an inevitable, albeit instrumental, component of popular memory as has been invoked during protests ever since. However, direct action by means of litigation during subsequent evictions has proven to be the more significant of resistance mechanisms adopted to rein in state action.

The 1981 evictions in janmam and non-janmam forests were more organized in their implementation with the government emerging resolute in its intentions to curtail incessant encroachments. An exclusive 'eviction bureaucracy' was installed and special posts of superintendent of police and Assistant Conservators of Forests (ACF) were created for evictions. Having amended the Tamil Nadu Forest Act to include the clause 68-A, which shortened the period between issue of eviction notice and reply by the concerned encroachers and thereby limited legal latitude to obtain court orders, the government commenced evictions. Though crops were cleared and lands planted with eucalyptus saplings, houses were spared. While interviews revealed that farmers either remained mute spectators to crop clearance or fled and hid given the substantial sizes of eviction teams, others who gathered and protested were booked under criminal offences. A few respondents recalled pleading and prostrating before

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211 Oral history of Louis' kin (26-2-2002).
eviction teams. More arrests followed as a general curfew was imposed and was infringed by protests, processions and sporadic assembly by farmers. Concerted state action provided the impetus for direct action in the form of writ petitions filed in the Supreme Court by the lawyer and secretary of the Farmer’s Association, and another Syrian Christian farmer. While the lawyer’s petition was preferred as a ‘public interest litigation and as a collective action’ in a representative capacity on behalf of ‘Malayalee farmers and settlers’ in Gudalur,212 the farmer’s petition was filed in an individual capacity. During the last phases of evictions that continued for a short while after the court stayed evictions, farmers also resisted by displaying copies of the court orders.213

Since 1981, except in one instance in 1991, peasants in reserve forests and lands have not resorted to collective protest in their identities as ‘Malayalee farmers’, through litigation or otherwise. In 1991, mobilized by local politicians, farmers participated in large numbers in a procession to protest the district administration’s ‘Green belt’ programme that curtailed human activity in the vicinities of the adjoining Mudumalai National Park. Forty percent of respondents, all Malayalee, mentioned their participation in the procession and on the basis of apprehensions spread by politicians and others on animals from the Park being let loose into farms and on the constrains of building houses in future or improving lands.214 But for this ‘protest’ event, the court stay on evictions and the subsequent legal ambiguity and ambivalent state control, generally negated direct action. Apart from individual litigation by relatively affluent farmers, to gain possession or preempt clearance of new crops, which fact

212 W.P. 7035 of 1981.
213 Oral histories of farmers in non-janamam lands in Birikenad.
214 Interviews with NGOs, farmers and political leaders; SNC Newsletter, December 1991, Vol. 5, No.2.
contributed to the ambiguity, overt resistance has ensued only in the form of 'locale' based sporadic processions, especially in section-17 lands. Such processions ensued when the forest department cleared fresh saplings of permanent crops such as tea, least such crops be used to establish 'occupancy' and thereby possession. Such protests are usually organised by political parties and occasionally through separate peasant initiative.215 An instance of the latter is evident from encroacher responses from reserve lands in Puliampara village in Devala. Here, attempts by the forest department to clear crops in particular reserve lands were resisted by about four hundred farmers from neighboring reserve lands. Latter, mobilized by a panchayath leader, farmers took out a procession in Gudalur town.216 Protest processions have been more prosaic in section-17 lands, especially after the 1996 interim orders of the Supreme Court. Though small farmers have not normally been disturbed during 2001 and 2002, as the district forest office and the district revenue headquarters' prioritized the eviction of large scale encroachments, they have been mobilized by bigger encroachers in O'Valley and Padanthara. Small farmers also gather on ground during the frequent evictions of bigger encroachments in section-17 forestlands given the fact that they also work for wages on the said lands or are warned of the possibility of facing similar action by the forest department. Tamil respondents in O'Valley claim to have been approached by affluent encroachers to protest against the forest department and even promised lands in the event of their concurrence to participate in protests. Resistance by affluent encroachers in section-17 lands has also remained violent. While forest officials are 'gheraoed' viz. surrounded and heckled, foresters and guards are even threatened with arms.217 The District Forest Office, for instance, noted the cancellation of eviction operations in June 2002, as 'encroachers had

215 Interviews with farmers and political leaders.
216 Interview with Syrian farmers in 'Puliampara' reserve land, Pandalur forest range.
217 Interview with DFO and Foresters.
gathered in large numbers, disrupted the eviction process and threatened eviction team with dire consequences.²¹⁸

Covert resistance by farmers in the post 1981 period is evident in their roles in rendering reserve lands and forests as anomalous tracts and also evident in their attempts to thwart the forest department’s attempts to pursue plantation forestry. According to official descriptions, ‘destroyed forest pockets could be seen all through the forests here and there’ and encroachers have ‘left no forest area compact’.²¹⁹ Though the transformation of natural vegetation into cultivated tracts is concomitant to the encroachment phenomenon, the felling of forest trees and other biotic species characteristic of earlier natural vegetation in unoccupied surroundings, indicate strategic activity. While availing of the pecuniary benefits of felling, encroachers seek to remove all evidences of natural vegetation to deny the forest department any ecological, if not legal criteria of asserting its claims during any future course of land reclamation. Syrian farmers in Padanthorai and Sri Madurai testify to this conjecture wherein it is generally considered that the presence of forest trees species or its sprouts, entails potential trouble in the form of subordinate personnals’ visits and also being accountable for forest species. Farmers allude to a general state of ‘good’ if forests are cleared.²²⁰ Covert resistance is also discernable in the frequent burning of forest plantations even in tracts that are not proximate to human habitation. Guards ascribe incendiary acts mainly to Syrian Christian encroachers who do not want any

²¹⁸ 'A Note on Encroachment over Sec 17 lands having green cover and other forest areas under the control of forest department': ‘Problems and Remedies Proposed’, prepared by the District Forest Officer, 17-9 2000; R.D.
²¹⁹ Copy of letter No. 67985/85 T1, dt. 18-9-1993 from the S.C.C.L.A, Chennai, to the Revenue Secretary, Chennai, R.D.
²²⁰ Field notes, Padanthorai, (5-3-2002).
evidence of forests by which the department can lay any claims.\textsuperscript{221} Resistance also remains symbolic, more frequently in non-janamam lands, where artifacts of official authority are defaced. The common targets are stones laid to mark reserve forest boundaries, and ‘chain link’ fences installed around plantation forests. While stones are damaged, fence posts are stolen.\textsuperscript{222}

4.8.1 Expressive Dimensions

Direct protest is also instructive in its expressive dimensions. While litigation was a strictly rational course of direct action, and immolation an individual act of other forms of overt protest are instructive. Protests are either a community initiative or organized by political parties under ‘all party’ initiatives, as the patta issue remains politically pertinent and can only be ignored with electoral consequences. The absence of NGO involvement in organizing protests is notable. Processions are usually held in the Gudalur town, which is the taluk headquarters. Characterised by patta and anti forest department slogans, processions inevitably head towards the Revenue Divisional Office. After a ‘sit-in’, speeches are made by political leaders, other persons of local significance and affected farmers, and petitions submitted to the Revenue Divisional Officer (RDO). Processions subsequently proceed to the District Forest Office, slogans raised, and a hearing with the District Forest Officer (DFO) sought. Upon occasion, farmers travel to the district headquarters in Ooty and seek audience with the District Collector. While arguments relating to the livelihood pursuits of the ‘small farmer’ or the ‘minute farmer’ and the implications of its disruption are stated, moral economic arguments in respect of the forest department’s obligations, accruing from its allowance of cultivation to persist before it was

\textsuperscript{221} Field notes, Sri Madurai, (3-4-2002).
\textsuperscript{222} Field notes, Bitherkad, (8-4-2002); Erumad (16-4-2002)
interrupted, are also put forward. In one such protest in 2001 following evictions in section-17 lands in O'Valley, Malayalee and Tamil farmers proceeded to the revenue office, laid allegedly uprooted ‘grown coffee and tea’ plants in front of the office premises. Latter after being denied an audience with the forest officer, farmers proceeded to Ooty to express their protest to the Collector. As in this protest instance and as a standard feature of all other processions since 1973, the immolation episode of Louis is recalled in support of the patta cause.

4.8.2 Ideology

Resistance in Gudalur contains an ideological content that reflects the agrarian afflictions of peasants, where the need for patta and the ensuing security remain the primary contentions rather than the retaining of customary access and control over forest resources. NGOs cite this ‘patta’ affliction and the absence of any conservationist ethic as reasons of their non-engagement with Gudalur farmers.

Even the more influential of resistance strategies such as litigation and immolation have had land regularization as their rationale. Land contentions are starkly evident in the fact that during protests, farmers always approach the revenue office first and submit their ‘patta’ grievances to the RDO. The uprooting of eucalyptus saplings during evictions revealed no discontent over the commercial orientation of the forest department or any alternate preference of forest species necessary for subsistence, but entailed retaliation against crop clearance and an act of land reclamation. The defacement of official symbols and incendiaryism were not in retaliation of any loss of customary resource use and rights, but were instrumental acts to render forests anomalous. Defacement and damage were also ‘phobic’ acts arising from a hostility

223 Field notes, Gudalur, (13-12-2001)
224 Interviews with the Nilgiri Wildlife and Environmental Organization and The Save Nilgiris Campaign.
nurtured ever since precedent evictions.\textsuperscript{225} As against the usual trend of degradation causing conflicts, in Gudalur the inverse is evident, and farmers' explication of this phenomenon confirms their 'environmentally' problematic credentials. While certain respondents contend that forests will continue to denude as long as the patta issue prevails, others postulate the contingency of settlement attempts by the state inducing further encroachments.\textsuperscript{226} Even as farmers refer to a decrease in rainfall in Gudalur, they also note an increase in green cover as a result of their productive activities and thereby deny any relationship between deforestation and decrease in precipitation. Here farmers contrast their 'green' vegetation to the denuded and sparsely vegetated forest lands in the surroundings. The non-dependence of farmers on natural or wild vegetation as is evident in their demarcation of agro-forests from what is usually referred to as the 'department's forests', has rendered the encroacher community a problematic constituency for conservancy. As discerned from responses, conservancy for farmers, in terms of 'joint management', is an effort that can only be considered if patta is given. Further, even in such circumstances, farmers generally add a caveat of growing more species of pecuniary utility, and protecting their own forests. Deficient as an 'autochthonous' community with customary entitlements over forests, peasants in Gudalur resist the state in a solely material deportment. Peasants do not seek to restrain degradation by the state or the market or retain forest control for the purpose of sustainable resource use by the community, but to gain individual freehold title.

\textsuperscript{225} Interviews with a Syrian Christian political leader and Syrian Christian farmers; oral history interview with Louis kin. These interviews suggested the presence of a 'forest phobia' amidst the community.

\textsuperscript{226} Interview with Jacobite farmers in Bitherkad.
CHAPTER - 5

SUMMARY AND CONCLUSIONS