

FOREST LAWS IN INDIA - POLICY AND ASSESSMENT

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ABSTRACT

This Research paper is intended to be a systematic and practical guide to the basic features of modern forestry legislation. It identifies a range of issues that should be considered in assessing the adequacy of forest laws and presents options for addressing those issues in ways that may improve the effectiveness of law as a foundation for sustainable forest management. First segment of the research work locates forestry law within the wider legal framework, exploring its complex interrelations with other local and general laws. Land issues are given special treatment because the relationship between forest access and use and land tenure is so important. Second segment talks about enforceability in detail, the legal treatment of core forest management issues, such as forest classification, policy making, concessions, licensing, and private forest management. Third Segment focuses on the role of national and local Agencies/departments working in the sustainable management of forest resources. As decentralization of forestry responsibilities and devolution of powers are growing, local actors are given more prominent roles in forest planning, use, and management, through such means as community-based arrangements. Fourth segment explores a range of environmental and trade issues. Fifth segment examines financial and enforcement measures, emphasizing that compliance and enforcement of forest law should be reinforced by financial and administrative sanctions. The study concludes with some reflections on how the effectiveness of forest law can be enhanced by attention to the principles that guide the process of enforceability of forest laws.

Keywords- *Policies of Forest laws, Forest tenure, Forest administration, public forestry, private forestry, Forest laws and Trade, Enforcement measures.*

INTRODUCTION

Forests are the major natural resources and are also recognized as a colorful expression of nature. They are also recognized as guardians and protectors of the wildlife of the country. Forests are valuable not only due to his botanical use but also for its recreational and scenic beauty that gives glory and attraction to many places in North-east of India as well as in other countries. Forests always add to the agriculture of the place it was situated whether it is in the terms of fertility of the soil, prevention of soil erosion, and promote perennial stream flow in rain-fed rivers. They shelter wild animals, preserve gene pools, and protect the tribal population. Thus, forests help in maintaining the ecological balance.

Besides these environmental and ecological benefits, forest bring revenue to the state, supply raw material to industries, and act as a source of fuel and fodder. Forest management always gives rise to conflicting viewpoints. Claims of development would raise problems of ecological security. During the last century, forest has been cut at rates unequalled in world and they are disappearing at an alarming rate. In India, it has been claimed that we have got vegetation cover over 19% of the total land area as against the accepted ideal of 33% in India and over 40% internationally. Thus, vegetation cover is much less than required. The forests are home to some of the world's signature fauna, including the Bengal tiger and Asian elephant, as well as a diverse tropical flora unique to the subcontinent. The forests also contain vast reserves of natural resources, like timber products and minerals. With its population growing, demanding more resources, and consuming more, Indian forests face possible degradation. Forest helps in keeping air and water fresh and climate good. The Indian Forest Act 1927 and State legislation relating to forest impose Governmental control over forests by classifying them into reserved forests, protected forests and village forests.

Every law carries with it the hopes and aspirations of the social and political forces at work at a given time. The Indian Forest Act, 1927 is a comprehensive legislation relating to forests management that consolidates the pre-existing laws. The Forest Act, being a product of the British colonial period, reflects the exploitative intentions of colonial and feudal society of that time, rather than the environmental and ecological interests of the society. Based on a revenue-oriented policy, its main object was to regulate dealing in forest produce and augment the public exchequer by levy of duties on timber.

When India gained independence, forests were placed on the state list of the constitution. Forest departments of individual states continued to regulate forests in accord with the Indian Forest Act of 1927, as implemented by state regulations. The Indian Forest Act gives the state jurisdiction over both public and private forests and facilitates the extraction of timber for profit. Public forests are those in which state governments have a proprietary interest, are divided into three categories: Reserve forests, village forests, and protected forests.

HISTORICAL BACKGROUND

India has a very old culture and civilization of our country have developed on the river banks and amidst the dense forest. Different Vedas make it clear that often people saw the image of god in nature (trees, plants etc,) and treated them as divine objects with great devotion and love. Plants were regarded as possessing divine qualities with reference to their healing powers. Moreover, plants were deified of God Varuna, one of the most popular deities of Vedic times¹.

Emperor Ashoka is also known for his work to protect forests and for planting trees along public roads. The edicts issued by him include “Forest must not be burned” and “*trees shall be planted on both the sides of the roads*”². India had a culture of protecting and guarding the forests and it was a social responsibility of the individuals as well as the rulers to maintain and protect them. And, that India had a culture of worshipping glory.

Till the inception of the British colonial period the forest were protected by the tribal people but during the British period the forest were used as the matter of revenue extraction and not as natural resources. Many forests were destroyed in the name of agriculture and the need for more land for cultivation. Later on, forests were extensively cut to meet the needs of timber for ship building, iron smelting and tanning. Oak forests were cut and shipped to England for the use of English Royal navy as the “*safety of the empire depended on its wooden walls*”³. British Rule in India was virtually a period in which forests were vastly damaged and destroyed and the vegetation cover started shrinking.

¹ Reply by Union Minister of Environment and Forests to Rajya Sabha, 24 March, 1998.

² State of India’s Environment: The Citizen’s Fifth Report, Centre for Science and Environment, 1999.

³ Mahdhav Gadgil and V.D. Vartak, Sacred Groves in Maharashtra: An Inventory, in S.K. Jain (ed), Glimpses of Indian Ethnobo-tany, Oxford University Press, Bombay, 1981.

To, serve the imperial cause, the forest act was enacted in 1865 and the forest department was established. The main purpose of this act was to facilitate the acquisition of the Indian forest areas to supply timber for railways and to establish the claim of the state on the forest land. But, the Act did not have provisions to protect the existing rights of the people living in the forests. Basically this Act was meant to regulate forest exploitation, and the management and preservation of forest resources. Soon, it was found that the provisions of the Act were not effective as it lacked deterrent punishment and gave only meager powers to the forest officers. Therefore, after a great debate, a new forest act was passed in 1878 which claimed absolute control and ownership rights of the state on forests. It also recognized the rights of the nomads of the forests and of other nearby dwellers in various areas. Such rights included the rights of the villagers in Himalayan region, tribals in Chhattisgarh, Santhals in midnapore, Bhil in Rajasthan and other north-eastern Areas.

FOREST LEGISLATIONS

The first effort to regulate the Indian forests began in South India. In 1880, a commission was appointed to enquire into the availability of teak in the Malabar forests. Following the commission's report, felling of teak below twenty one inches in girth was prohibited. Subsequently, in 1805, a Forest Committee was constituted to assess the capacity of forests. It found that the more accessible forests had been over-worked⁴. So a proclamation was made declaring 'royalty rights' over teak trees in the south and prohibiting unauthorized felling of teak.

As soon as Brandis was appointed as Inspector General of Forests, Cleghorn was deputed to assist him. They were responsible for the development of methodological system of forest management in the early stages. They realized the necessity for separate forest enactment not only for affording protection to the forests but also for bringing them under proper management with adequate authority vested in the officers of the forest department for the purpose. In 1865 the first Indian Forest Act was passed. It came into effect on 1 May 1865. The Act empowered the Government to declare any land covered with trees as Government forests and to issue rules for conserving them. This was the first attempt at forest legislation by the British in India. But

⁴ B.H. Baden Powell, *Forest Law*, Bradbury Agnaw and Co., London, 1893, p. 225.

the Indian Forest Act was not extended to Madras presidency mainly on account of the attitude of the Board of Revenue. It held that the villagers had the rights over the forests and forests could not be established as the absolute property of the State⁵.

A revised Indian Forest Act was passed in 1878 and was extended to all provinces of British India with the exception of Madras and some other areas. This Act aimed at improving on the inadequacies of the Indian Forest Act of 1865. This Act classified the forests into reserved forests, protected forests and village forests. The rights of the people over forest lands and produce in the reserved and protected forests were restricted and regulated by this Act. It empowered the Government to exercise control over the forests.

INDIAN FOREST ACT, 1927

To make forest laws more effective and to improve the forest Act, 1875, a new comprehensive Forest Act was passed in 1927 which repealed all previous laws. The Act consists of 86 sections divided into 13 chapters. The main objects of the Act are

- 1) - To consolidate the laws relating to forests.
- 2) - Regulation of and the transit of forest produce. And,
- 3) - To levy duty on timber and other forest produce⁶.

The term “**forest**” has not been defined in the Act. But the Allahabad High Court, while defining the term, adopted the definition provided by the Food and Agriculture Organization (FAO) according to which forest means “*all lands bearing vegetative association demarcated by trees of any size, exploited or not, capable of producing wood or other food products*”⁷.

The Act also empowers the state for requisition of any private forest for any purpose under the Act, which shall be deemed to be “needed for a public purpose” within the meaning of section-

⁵ Jha, India's Forest Policies, p.1.

⁶ Vasant Desai, Forest Management in India, p.2.

⁷ Rangarajan M., Fencing the Forests, 1st edn., Oxford University Press (1996) New Delhi, p. 29.

4(land acquisition act, 1894). Many states have passed various Acts to take over the private forests from the private owner.⁸

Section-2 of the Forest Act, 1927 has defined certain terms like word “cattle” which include almost all animals and the word like “forest produce” includes timber, charcoal, wood-oil etc, but the forest produce does not include “ivory”, therefore, vehicle used in transporting ivory cannot be confiscated. But the concerned authority under this act has authority has a right to confiscate articles before guilty is completely established. It has also been made clear that the provisions of section-102 and 103 of the Criminal procedure code of 1973 relating to search and seizure shall be applicable to the act as well⁹.

It also made several provisions for imposition of duty on timber which later on became a source of revenue to the Government. The Indian Forest Act, 1927 contained all the major provisions of the earlier Act. This Act was the model Act for States to frame the State Forest Acts¹⁰.

1. Reserved Forests – Reserved forest is dealt with in Chapter II of the Act. It is an area or mass of land duly notified under section 20 or under the reservation provisions of the Forest Acts of the State Governments of the Indian Union. It is within power of a State Government to issue a preliminary notification under section 4 of the Act declaring that it has been decided to constitute such land, as specified in a Schedule with details of its location, area and boundary description, into a Reserved Forest. Such a notification also appoints an officer of the State Government, normally the Deputy Commissioner of the concerned district, as Forest Settlement Officer¹¹. The Forest Settlement Officer fixes a period not less than three months, to hear the claims and objections of every person having or claiming any rights over the land which is so notified to be reserved and conducts inquiries into the claims of rights, and may reject or accept the same. He is empowered even to acquire land over which right is claimed. For rights other than that of right of way, right of pasture, right to forest produce, or right to a water course, the Forest Settlement Officer may exclude such land in whole or in part, or come

⁸ Chhatrapati Singh, Common Property and Common Poverty : India’s Forests, Forest -Dweller and the Law (Delhi, 1986) , pp. 60-71.

¹⁰ Hand Book of Environment, pp. 203-70.

¹¹ pp. 172-74; The Gazette of India, 27 Dec. 1980.

to an agreement with the owner for surrender of his rights, or proceed to acquire such land in the manner prescribed under the Land Acquisition Act, 1894¹².

Once the Forest Settlement Officer settles all the rights either by admitting them or rejecting them, as per the provisions of the Act, and has heard appeals, if any, and settled the same, all the rights with the said piece of land, with or without alteration or modification of boundaries, vest with the State Government. Thereafter, the State Government issues notification under section 20 of the Indian Forest Act, 1927 declaring that piece of land to be a Reserved Forest.

2. Village Forests – Village forest is dealt with in Chapter III of the Act. It is constituted under section 28. The Government may assign to any village community the rights over a land which may be a part of a reserved forest for use of the community. Usually, forested community lands are constituted into Village Grazing Reserve (VGR). Parcels of land so notified are marked on the settlement revenue maps of the villages.

A Village forest is different from a Forest Village. Though many a times both terms are used interchangeably, both are different in their meaning. While village forest is a legal category under the Indian Forest Act forest village is merely an administrative category. Although forest village is recognized as a forest department, the revenue benefits cannot accrue to such villages as they are not technically under the revenue departments¹³.

3. Protected Forests – Protected forest is dealt with in Chapter IV of the Act. It is an area or mass of land, which is not a reserved forest, and over which the Government has property rights, declared to be so by a State Government under the provisions of the section 29. It does not require the long and tedious process of settlement, as in case of declaration of a reserved forest. However, if such a declaration infringes upon a person's rights, the Government may cause an inquiry into the same; but pending such inquiries, the declaration cannot abridge or affect such rights of persons or communities. Further, in a protected forest, the Government may issue notifications declaring certain trees to be reserved, or suspend private rights, if any, for a period not exceeding 30 years, or prohibit quarrying, removal of any forest produce, breaking of land, etc.¹⁴

¹² Principal Chief Conservator of Forests, Policy and Implementation, p.8; The Gazette of India, 17 Dec. 1988.

¹³ Brandis, Suggestions Regarding Forest Administration, pp.4-264.

¹⁴ Fort St. George Gazette, 6 and 11 July 1882; 19 Aug. 1882 and 12 Sept. 1882; Brandis, Suggestions Regarding Forest Administration, p.2.

There is another type of forests known as Non-government Forests. Though this category is not expressly termed as a separate category, it is dealt with in Chapter V of the Act. It covers the forests and land not being in control of the government. The State government can, by notification, regulate or prohibit the breaking up or clearing of land for cultivation, the pasture for cattle or the firing or clearing of vegetation to protect against storms, winds, rolling stones, floods and avalanches, to preserve soil from erosion, to maintain water supply in springs, rivers and tanks, to protect roads, bridges, railway, lines of communication and to preserve public health.

DRAWBACKS OF THE INDIAN FOREST ACT, 1927

A deep investigation of the act reveals that the act never aimed to protect the vegetation cover of India but was passed to:-

- 1)- Regulate the cutting of trees
- 2)- Earn revenue from the cutting of the trees and from the forest produce.

Moreover, it also deprived the nomads and the tribal people of their age old rights and privileges to use the forests and forests produce. It mainly aimed at supplying raw material for forest based industries. Forest was accepted as a significant factor in eco-balance and environmental preservation. It is necessary to point out here that revenue oriented attitude towards the forest has continued even after independence. Therefore, this act of 1927 failed miserably to protect the forest from unscientific and unplanned exploitation¹⁵.

The Act of 1927 also denied common ownership or occupancy rights or property rights to the occupants of land/tribal. These forest dwellers living there for generations were not given any right over the forest land and forest produce. Rather Forests were declared to be the property of the government and in case of disputes the Forest settlement officer has all the right to decide the claim.

¹⁵ National Commission of Agriculture (1976) defines the aim of commercial forestry to increase “production of timber, fuel wood and other forest products as a business enterprise”.

FOREST CONSERVATION ACT, 1980

In 1980, the Parliament, in response to the rapid decline in the forest covers in India, and also to fulfill the Constitutional obligation under Article 48-A, enacted a new legislation called the Forest Conservation Act, 1980. Deforestation causes ecological imbalance and leads to environmental deterioration¹⁶. With a view to check further deforestation, the President promulgated the Forest (Conservation) Ordinance, 1980 on the October 25, 1980. The Ordinance made the prior approval of the Central Government necessary for de-reservation of reserved forest and for use of forest land for non-forest purposes. Ordinance also provided for the constitution of an advisory Committee to advise the Central Government with regard to grant of such approval.

The Ordinance was later on replaced with the enactment of the Forest Conservation Act, 1980 that came into force on October 25, 1980, which is the date on which the Forest Conservation Ordinance was promulgated. The Act too was passed with a view to check deforestation. The basic aim of the Act was to provide for the conservation of forests and for matters connected therewith or ancillary or incidental thereto. Under the provisions of this Act, prior approval of the Central Government is essential for diversion of forest lands for the non-forestry purposes. In the national interest and in the interest of future generations, this Act, therefore, regulates the diversion of forest lands to non-forestry purposes¹⁷.

The basic objective of the Act is, to regulate the indiscriminate diversion of forest lands for non-forestry uses and to maintain a logical balance between the developmental needs of the country and the conservation of natural heritage. The, guidelines have been issued under the Act from time to time, to simplify the procedures, to cut down delays and to make the Act more user friendly. Prior to 1980, the rate of diversion of forest lands for non-forestry purposes was about 1.43 lakh hectare per annum. However, with the advent of the Forest (Conservation) Act, 1980, the rate of diversion of forest lands were controlled to a certain extent.

¹⁶ <http://www.agriinfo.in/?page=topic&superid=2&topicid=1605>.

¹⁷ Social forestry has five components: Community, farm, extension, agro and recreational. Commercial forest production forms a component of farm and agro forestry.

Refer: My Agriculture Information Bank, <http://www.agriinfo.in/?page=topic&superid=2&topicid=1605>, for definition of social forestry.

The Act allows the diversion of forest land only for certain purposes such as to meet the developmental needs for drinking water projects, irrigation projects, transmission lines, railway lines, roads, power projects, defense related projects, mining etc. For such diversions of forest lands for non-forestry purposes, compensatory afforestation is stipulated and catchment area treatment plan, wildlife habitat improvement plan, rehabilitation plan etc. are implemented, to mitigate the ill effects of diversion of such vast area of green forests¹⁸.

To monitor the effective implementation of the compensatory afforestation in the country, an authority named as "Compensatory Afforestation Management and Planning Authority (CAMPA)"¹⁹ is being constituted at the national level. A monitoring cell is also being set up in the Ministry of Environment & Forests to monitor the movement of proposals at various stages and the compliance of the conditions stipulated in the forestry clearances by the user agencies. Clearance from Central Government for de-reservation of Reserve Forests, for use of forestland for non-forest purpose and for assignment of leases has been made mandatory under The Forest Conservation Act, 1980.

Under section 2 of the Act, prior approval of Central Government has to be obtained by the State Government or other authority for undertaking any of the above mentioned activities. For this purpose, the proposal has to be sent to the Central Government in the form specified in The Forest Conservation Rules, 1982. In case the proposal for clearances are rejected, a person aggrieved by an order granting environmental clearance can appeal to National Environmental Appellate Authority set up under National Environmental Appellate Authority Act, 1997 within thirty days from the rejection of the proposal²⁰.

¹⁸ M F Ahmed, "In-Depth Country Study-India", Asia-Pacific Forestry Sector Outlook Study Working Paper Series, Working Paper No: APFSOS/WP/26, October 1997, <http://www.fao.org/docrep/W7716E/w7716e06.htm>.

¹⁹ Puja Mondal, "Forest resources in India: Use, over exploitation, causes and effects", <http://www.yourarticlelibrary.com/environment/forest/forest-resources-in-india-use-over-exploitation-causesand-effects/28196/>.

²⁰ Rekha Singhal, "Changing Modes of Forest Governance in India: Evolution or Revolution?", Indian Institute of Forest Management, pp56-72, http://awsassets.wwfindia.org/downloads/forest_governance.pdf.

THE SCHEDULED TRIBE AND OTHER TRADITIONAL FOREST DWELLERS (RECOGNITION OF FOREST RIGHTS) ACT, 2006

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 was passed almost unanimously by the Lok Sabha as well as the Rajya Sabha on December 18, 2006. This legislation, aimed at giving ownership rights over forestland to traditional forest dwellers. The law concerns the rights of forest dwelling communities to land and other resources, denied to them over decades as a result of the continuance of colonial forest laws in India. A little over one year after it was passed, the Act was notified into force on December 31, 2007.

On January 1, 2008, this was followed by the notification of the "*Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007*²¹" framed by the Ministry of Tribal Affairs to supplement the procedural aspects of the Act. The Ministry of Tribal Affairs was established as an independent ministry in 1999 to deal specifically with scheduled tribes. The criteria for designating a tribe as "scheduled" include having 'primitive' traits, dwelling in geographical isolation, having a distinct culture, being shy of contact with the outside world and being economically '*backward*'. There are more than 600 officially listed scheduled tribes in the country, comprising less than 10% of the country's total population and with little over 2% believed to be dwelling in forests²². The list of rights as provided under the Act includes:

- Right to live in the forest under the individual or common occupation for habitation or for self-cultivation for livelihood
- Right to access, use or dispose of minor forest produce
- Rights of entitlement such as grazing and traditional seasonal resource access

²¹ Laws Relating to Indian Forest", <http://www.lexuniverse.com/environment-laws/india/Laws-relating-to-Indian-Forest.htm> 1; A history of these forest legislations can be seen in Archana Vaidya, "A History of Forest Regulations", August 2011, <http://infochangeindia.org/environment/background/a-history-of-forestrestitutions.html>

²² Forest and Forestry Sector India, Food and Agriculture Organization of the United Nations, <http://www.fao.org/forestry/country/57478/en/ind/> - Food and Agricultural Organization (FAO) notes that consumption of fuel wood in India is 5 per cent above the sustainable level in India.

- Rights for conversion of leases or grants issued by any local authority or any state government on forest lands to titles
- Right to protect, regenerate or conserve or manage any community forest resource.

Which the scheduled tribes and other traditional forest dwellers have been traditionally protecting and conserving The Act grants four types of rights. Section 3(1) of the Act grants Title rights, that is, ownership to land that is being framed by tribals or forest dwellers as on December 13, 2005, subject to a maximum of 4 hectares. Ownership is only for land that is actually being cultivated by the concerned family as on that date, meaning that no new lands are granted. Section 3 (1) also grants Use rights over minor forest produce, including the ownership, to grazing areas, to pastoralist routes, etc. Relief and development rights are granted under Sections 3 (1) and 3 (2) of the Act. It includes the right to rehabilitation in case of illegal eviction or forced displacement and to basic amenities, subject to restrictions for forest protection. Forest management rights are granted under Section 3 (1) and Section 5 of the Act with the view to protect forests and wildlife²³.

OPPOSITION OF FOREST RIGHT ACT, 2006

The Act is one of the most controversial and strongly opposed legislations right from the very beginning. Since the bill was drafted and introduced in the parliament, it has generated a lot of debate. It is perhaps the first and only Act in the history of India to have been opposed through a TV campaign. In October 2003, Vanshakti, a group based in Mumbai, ran TV advertisements against the Act.

The Act was vehemently opposed by the wildlife conservation lobby and the Ministry of Environment and Forests who termed it as the ideal recipe to ensure the destruction of India's forests and wildlife by "*legalizing encroachments*". The forest department, together with the timber mafia, too had been blocking it, since it would severely erode their stranglehold over

²³ Rekha Singhal, "Changing Modes of Forest Governance in India: Evolution or Revolution?", Indian Institute of Forest Management, pp56-72, http://awsassets.wwfindia.org/downloads/forest_governance.pdf

forest products. Corporate are also against it, since the illegal status of tribals and other forest dwellers makes the process of eviction and land acquisition for industrial projects easier²⁴.

Some of this opposition has been motivated by those who see the law as a land distribution scheme that will lead to the handing over of forests to tribals and forest dwellers. However, the strongest opposition to the Act has come from wildlife conservationists who fear that the law will make it impossible to create "inviolable spaces", or areas free of human presence, for the purposes of wildlife conservation. Tiger conservation in particular has been an object of concern. Many conservationists have also given recommendations for the amendment of the Act.

SUPPORTERS OF THE FOREST RIGHT ACT, 2006

The supporters of the Act argue that it is large developmental projects, such as large dams, power plants and mining activities, etc., that need to be checked, rather than the forceful eviction of traditional forest-dependent communities to save the forests. Several groups contend that it is not tribals who are bringing in commercial activities into forests, but external commercial pressures that are degrading the forest resources and thereby eroding the traditional lifestyles of tribal communities. Meanwhile the more radical green groups warn against the land mafia misusing the provisions of the proposed law into conning unsuspecting tribals vested with land rights to part with their land in prime forest areas.²⁵

They also fear that the proposed legal provision allowing for the "sale of forest-based products for their household needs", would translate into large-scale commercialization of forest resources. However, supporters of the Act take the position that the Act is not a land distribution measure, and further that the Act is more transparent than existing law and so can help stop land grabbing. Regarding wildlife conservation, they have argued that the Act actually provides a clear and explicit procedure for resettling people where necessary for wildlife protection, but also provides safeguards to prevent this being done arbitrarily. Supporters of the Act and others also argue that the provisions in the Act for community

²⁴ Forest Sector Report India (2010), India Council of Forestry Research and Education, Dehradun, Ministry of Environment and Forest, Government of India: www.icfre.org/FSRI-REPORT_English.pdf

²⁵ Ministry of Forest and Environment, Government of India; http://fsi.nic.in/details.php?pgID=mn_93

conservation will in fact strengthen forest protection in the country. This is said to be because it will provide a legal right for communities themselves to protect the forest, as thousands of villages are already doing in the face of official opposition²⁶.

MADRAS FOREST ACT, 1882

The Act made provision for the protection and management of forests in the Madras presidency. The Forest Act of 1865 was never extended to the presidency and the present Act is the first forest law enacted for this presidency. The provisions of the Act were mostly taken, with some necessary modifications, from the Indian Forest Act of 1878 and Burma Forest Act of 1881, which had been successfully implemented in other parts of India²⁷. The first objective of the Act was to provide for the constitution of the more important forests as State reserves and either to clear them under arrangements or due compensation, of private rights which militate against forest conservancy or to ascertain and define such rights so that future extension of them and fresh encroachments should be impossible.

To this end, the Act enabled the Government to empower the Forest Settlement Officers to enquire into and to commit on record all private rights in areas to be selected for constitution as reserved forests. Upon the decision of the officer appeals could be made to the District Court within thirty days in case of claims involving proprietary rights and to the Revenue Officer within sixty days in case of rights of way, rights to pasture, to forest produce or to the water course. When the enquiry was completed and all claims disposed of and settled, the forest would be declared by the Government as reserved and thereafter no fresh rights could accrue therein. The Act contained provisions that were necessary for the protection of reserved forests²⁸.

²⁶ “Suggest Names for Panel to Protect Trees: HC,” New Indian Express, 26 April 2014, <http://www.newindianexpress.com/cities/Bangalore/Suggest-Names-for-Panel-to-Protect-TreesHC/2014/04/26/article2190237>

²⁷ Ministry of Environment and Forest, Government of India, Report of the Committee Headed by Shri A. K Bansal, On the Regulatory Regime Regarding Felling and Transit Regulations for Tree Species Grown on Non Forest/Private Lands, September 2018.

²⁸ Forest Sector Report India (2010), India Council of Forestry Research and Education, Dehradun, Ministry of Environment and Forest, Government of India: www.icfre.org/FSRI-REPORT_English.pdf

The Act defined the powers of interference with private forests. It was considered useless, having regard to the enormous claims for compensation which would arise, to attempt to restrain private proprietors who were destroying their forests by reckless felling and this part of the Act was, therefore, directed merely to securing protection against damage from fire. In these cases the private proprietor would be called upon to adopt measures for protection and when he is unable and unwilling to do so, the Government might assume control of the forest or land. The Act also facilitated the conservancy of private forest or forests in which Government had part interest by enabling them to be placed under Government management of supervision and by permitting the extension to them of the provisions of the Act.

The Act empowered the Government to make rules for the regulation of transport of timber and for the use of property marks for timber and to apply them in places where they might be wanted for the prevention of smuggling or the protection of forest revenue. The Act also dealt with penalties. But the only one of those provisions calling for special notice was that which empowered any police officer or forest officer to arrest with -out orders from Magistrate or without warrant any person who committed a forest offence.

THE TAMIL NADU PRESERVATION OF PRIVATE FORESTS ACT 1949²⁹

Originally this Act was enacted as a temporary Act. It was extended from time to time and was made permanent in 1965. This Act was extended to the Shencottah taluk of the Tirunelveli district from 1 July 1966. It should be noted here that the Tamil Nadu Forest Act, 1882, had provisions under section 29 to regulate private forests. Thus, the objectives set out in Tamil Nadu Preservation of Private Forests Act could be achieved through the 1882 Act itself. In such circumstances, there was no necessity for a separate Act for private forests. Even if additional provisions were required to be enacted, suitable amendments could have been incorporated in the Act of 1882. Earlier, land of more than twelve hectares of continuous area was covered by the Act and in 1979 it had been brought down to two hectares.

²⁹ India's Forests-Forests Policy and Legislative Framework, MoEF, available online at <http://ifs.nic.in/rt/book/page3.pdf> , accessed on 1/10/18

This could affect small farmers. The Act did not require any specific reasons for the declaration and there were no guidelines for the declaration. An Act for regulating private forests should have been restricted to conditions like prevention of natural disaster, soil erosion and so on. Without such criteria, the declaration under the Act could not achieve its objectives. Improper use of this Act could lead to aversion and fear against growing of any tree. Again there was no provision and mandatory clause in the Act for issuing notice to owner of the land before declaring it under the Act. Natural justice demanded that there should be a provision for issuing a notice to the owner of the land. Even the Tamil Nadu Forest Act enacted during the British regime provided provision for the issue of notice to the owner before any regulation on private land³⁰.

Under Tamil Nadu Forest Act when a land was intended to be declared as reserved forest, if any claim or right was admitted, the Government had to either acquire such land or come to an agreement with the claimant for surrender of the right. Unfortunately, under the Tamil Nadu Preservation of Private Forests Act, such provision was not available. Before 1965, when the Act was a temporary one, the owner had to forego his rights only for a definite short term. But now the Act had been made a permanent one that the owner lost his rights without being given any option to dispose of the land. This was unjust to the owner and a direct threat to the private tree growing activities because it created possibilities of the tree grower losing his customary rights over the land.

THE TAMIL NADU HILL AREAS (PRESERVATION OF TREES) ACT OF 1955

There had been indiscriminate cutting of trees in hill areas involving large scale deforestation, resulting in considerable soil erosion. In order to prevent this, the Government of Tamil Nadu enacted this Act which provided for the regulation of the cutting trees and cultivation of land in hill areas. This Act came into force on 2 September 1955. This Act broadly covered the following areas: constitution of Committees, prohibition of cutting of trees, prohibition of cultivation of cereals, rubber or Plantation crops and penalties³¹. As per the Act, previous

³⁰Rangarajan M., *Fencing the Forests*, 1st edn., Oxford University Press (1996) New Delhi, p. 29.

³¹<http://www.fao.org/docrep/003/y1237e/y1237e03.htm> accessed on 30/09/18.

written permission of the committee was required to cut or fell or remove any tree that constituted “*danger to life and property.*” As much as two months should pass between committee’s meetings. So, to expect that written permission of the committee should be obtained before felling a tree that constituted danger to life was “*utterly insensitive and inimical to public interest.*”

SURVEY BY CENTRAL FOREST COMMISSION³²

From the available records it is found that the breach of Forest Acts was a common feature in Tamil Nadu. In the year 1951-52, the total number of cases filed was 20664. The number rose to 34929 in 1978-79 and further rose to 45664 in 1994-95. In 1994-95, the total number of cases detected and filed in Wildlife Southern Region, Tirunelveli was 4162 and Rs.14.66 lakhs was collected as compounding fee. In 2000-01, the authorities of the Tirunelveli Circle filed 5525 cases of all kinds and collected a sum of Rs.16, 27, 880 as compounding fee.

THE KERALA PRIVATE FORESTS (VESTING AND ASSIGNMENT) ACT, (ACT 26 OF 1971)

The Kerala Private Forests (Vesting and Assignment) Act, (Act 26 of 1971) was enacted by the Kerala Legislature to acquire forest lands held on “*janmam right*³³” as a measure of agrarian reform. The Act did not provide for any compensation being paid to the owners of these private forests. The forest lands so vesting in government were intended to be assigned to landless agriculturists and agricultural labourers for cultivation. Soon after the Act was made, this had the effect of vesting the ownership and possession of private forests in the government, the affected owners.

³² <http://indiatoday.intoday.in/education/story/forest-report/1/html> accessed on 25/10/18.

³³ <http://thediplomat.com/2014/01/the-indian-supreme-court-as-an-environmental-activist/> - accessed on 22/09/18

ROLE OF JUDICIARY ON FOREST LEGISLATIONS

There is great necessity for conserving forests. With the increase in the Indian population, the area under forest is gradually decreasing. To ensure ecological stability, at least thirty percent of the nation's area should be under adequate forest cover. There was large scale deforestation and the forest cover dwindled to less than eighteen percent. Originally, the forests were placed on the State List whereby the States alone could make legislation concerning forests. By 1976, the forests were placed under the Concurrent List and the Parliament also could make legislations on that subject. Despite the major steps taken by the Governments, the deforestation continued unabatedly. In 1996, Supreme Court issued sweeping directions to oversee the enforcement of Forest Laws across the nation. The courts in India have played a dynamic role in preserving the environment and eco-system. In a series of cases, the superior courts of India issued various directions and orders to prevent the environmental degradation³⁴. To understand the role of the courts in this regard, the structure of the judicial system and also the constitutional and statutory provisions are to be taken note of. Litigation in India, enunciating a web of doctrines and interpreting Constitutional law from environmental perspectives. The Court had firmly disallowed the non-forest activities and granting of lease for non-forest activities in forests.

T. N. GODAVARMAN THIRUMULKPAD v. UNION OF INDIA³⁵

This case has been instrumental in forest conservation in India. This case, also known as the “forest case”, is an example of the judiciary overstepping its constitutional mandate. The Court has effectively taken over the day-to-day governance of Indian forests leading to negative social, ecological and administrative effects. The Godavarman case represents the single biggest judicial intervention in administration of forest in the country. This case was initially instituted to address timber felling in the Nilgiri range of Tamil Nadu. But subsequently, when several cases of similar nature were brought before the Court, they were tagged with the Godavarman case. The Supreme Court, in this case, has innovatively utilized several methods of resolving the conflicts presented before it which have a bearing on the entire country. In its

³⁴ <http://www.tnsja.tn.nic.in/article/Role%20of%20the%20Judiciary%20in%20Forest%20Conservation.pdf> accessed on 25/09/18.

³⁵ AIR 1997 SC 1228.

numerous orders, the attempt to define '*Forest*' and '*Forest land*', the appointment of various committees and commissions, reliance on experts' opinion on technical issues beyond the competence of the judiciary, the creative use of Amicus Curiae are several such methods which the Court has utilized in the interest of justice. The case has emerged as the largest judicial forum on all aspects of forest management including definition of forest, working plans, saw mills, dams, mining, infrastructure projects, use of forest land, encroachment, across the country and is not limited to any specific location or State. In this case, the SC reinterpreted the Forest (Conservation) Act, 1980. In its order dated 12 December 1996, the SC expanded the scope of the term "forest". Prior to this order, the word 'forest' was limited only to government declared forests irrespective of whether it had tree cover or not. Likewise, areas with significant tree cover were not regarded as 'forest' simply because in government records it was not declared as 'forest'. Due to this, large areas under good forest cover were outside the purview of the Forest (Conservation) Act, 1980. However, by its order, the SC expanded the term which now included within its scope not only forests as mentioned in government record but all areas that are forests in the dictionary meaning of the term irrespective of the nature of ownership and classification thereof.

The case has also resulted in creation of new structures for example the National Level Committee on Forestry popularly known as the Central Empowered Committee (CEC) which has been created under the Environment Protection Act.

THE CENTRE FOR ENVIRONMENTAL LAW (CEL), WWF VS. UNION OF INDIA AND OTHERS³⁶

This case pertains to the issue of settlement of Rights in National Parks and Sanctuaries and certain other issues under the Wildlife (Protection) Act, 1972. The most significant orders in the CEL case were the orders dated 22-8-1997 and the order dated 13-11-2000. The following are excerpts from the order dated 22-8-1997, which have been of immense consequence:

• **On Settlement** – “Even though notification in respect of sanctuaries/national parks have been issued under Section 18/35 in all the States/ Union Territories, further proceedings are required

³⁶ WP No. 337 of 1995.

under the Act i.e. issue of proclamation under Section 21 and other steps as contemplated has not been taken. The concerned State Governments/ Union territories are directed to issue proclamation under Section 21 in respect of the sanctuaries/ national parks within two months and complete the process of determination of rights and acquisition of land or rights as contemplated by the Act within a period of one year...”

• **On Poaching** – “In order to effectively control the growing increase of poaching in the Sanctuaries/National Parks the Central Government as well as the Government of the States/ UT’s are directed to ensure that the forest guards in the Sanctuaries/ National Parks are provided modern arms, communication facilities viz. wireless sets and other necessary equipments in that regards. Necessary steps in this regards shall be taken within six months.”

• **On Denotification** – “As regards denotification of any area which is included in a Sanctuary/national park, it is directed that before placing the proposal before the Legislative Assembly the concerned State Government shall refer the proposal to the Indian Board for Wildlife for its opinion and the proposal shall be placed for consideration before the legislative Assembly along with the opinion of the Indian Board for Wildlife.

By this single order, the Supreme Court divested the Central government (in respect to forests) and the State Legislature (in respect to National Parks and Sanctuaries) of all powers of dereservation/ denotification. Thus while the Godavarman case prohibited non forest use of forest land without Central Government approval, the CEL prohibited dereservation without Supreme Court approval. Both the Godavarman and the Centre for Environmental Law (CEL), *WWF vs Union of India* and others cases have led to fundamental changes that have wide impact on forest management. These cases are being heard for over a decade now and are a part of what is termed as "continuing mandamus", whereby the Courts, rather than passing final judgments, keep on passing orders and directions with a view to monitor the functioning of the executive. These orders have tremendous impact and implication on forest management and governance.

1) No forest, National Park or Sanctuary can be de-reserved without the approval of the Supreme Court.

2) No non-forest activity is permitted in any National Park or Sanctuary even if prior approval under the Forest (Conservation) Act, 1980 had been obtained.

3) An interim order in 2000 prohibited the removal of any dead or decaying trees, grasses, driftwood, etc from any area comprising a National Park or Sanctuary. It was also directed that if any order to the contrary had been passed by any State government or other authorities, that order shall be stayed.

4) New authorities, committees and agencies have been set up such as the Central Empowered Committee (CEC) and the Compensatory Afforestation Management and Planning Agency.

KAMARUDDIN N. SHEIKH v. STATE OF MAHARASHTRA³⁷

The petitioner was in possession of land which was declared as a private forest by an order passed by the Sub-Divisional Officer, Bombay. He contended to protect his property interests. He filed an appeal before the Maharashtra Revenue Tribunal. That appeal was dismissed by the Tribunal. He received a letter later on from the Divisional Forest Officer, Borivali, directing to stop quarrying operations and to pay royalty to Forest Department. The Maharashtra Revenue Tribunal after remand allowed the appeal and arrived at the conclusion that the land in question was not a forest land. It was held by the High Court that the land was a private forest which vests in the State Government under the Maharashtra Private Forests (Acquisition) Act, 1975.

SRI RAM SAHA v. STATE OF WEST BENGAL³⁸

In this petition the contention of the petitioner was not to be prevented him from felling down some of the existing trees standing on his ralyati land which has been recorded in the records of right under the classification Bagan (garden). He contended that at no point of time the said land was a forest of any nature and the same has never been converted from an earlier forest. The concerned trees intended to fell down are unproductive mango trees and they are very old trees and have lost their fruit-bearing ability and the petitioner has been incurring heavy financial loss every year and the trees have been affected with parasites and other

³⁷ 1996 (4) Bom. C. Rep. 209.

³⁸ (1999) 1 Cal LT 399 (HC).

uncontrollable worms so much so that any further standing of the trees would jeopardize the fruit-bearing ability of the other adjacent trees and they are urgently needed to be uprooted and accordingly, the petitioner has decided to cut down the said affected unproductive old trees of the garden for renovation of the garden by plantation of saplings therein. The Supreme Court directed that each State Government should constitute within one month an Expert Committee to identify areas which are forests. Irrespective of whether they are so notified, recognized or classified under any law, and irrespective of the ownership of the land of such forest, and identify areas which were earlier forests but stand degraded, denuded or cleared and also identify areas covered by plantation trees belonging to the Government and those belonging to private persons. The SC also held that the Forest Conservation Act, 1980 was enacted with a view to check deforestation which ultimately results in ecological imbalance; and therefore, the provisions made therein for the conservation of forests and for matters connected therewith, must apply to all forests irrespective of the nature of ownership or classification thereof.

BHAGWAN BHOI v. STATE OF ORISSA³⁹

In this case the land was shown as forest and in possession of the Forest Department. The only question was as to whether petitioner can carry on Saw Mill on the forest land. It was stated that since the petitioner was not granted license for Saw Mill after 1997, so cannot be renewed. The Supreme Court while considering the question about the object and purpose of the enactment of Forest (Conservation) Act, 1980 issued some guidelines which is as follows:

“In view of the meaning of the word “forest” in the Act, it is obvious that prior approval of the Central Government is required for any non-forest activity within the area of any “forest”. In accordance with Section 2 of the Act, all ongoing activity within any forest in any State throughout the country, without the prior approval of the Central Government, must cease forthwith. It is therefore, clear that the running of Saw Mills of any kind including veneer or ply wood mills, and mining of any mineral are non-forest purposes and are, therefore, not permissible without prior approval of the Central Government. Accordingly, any such activity

³⁹ 2003 SCC Online Jhar 125.

is prima facie violation of the provisions of the Forest Conservation Act, 1980. Every State Government must promptly ensure total cessation of all such activities forthwith.

ANALYSIS OF THE POLICIES ON FOREST LAWS

India has been having a forest policy since the year 1894. The forest policy of India was further revised again in the year 1952 and in 1988. The first official government move towards the forestry can be traced in the passing of the National Forest Policy of 1894 which focused on conserving forests for upholding environmental stability and meeting basic requirements of fringe forest user groups. The policy was revised in 1952 and the new policy stressed on extension of forests beyond the traditional forest areas. This gave a motion to social forestry and agro/farm forestry.⁴⁰ Since the National Forest Policy of 1952, there has been a promotion for 33% forest cover with a 60% forest cover in mountainous and hilly regions. This aim was restated in the National Forest Policy of 1988 and was also established in the National Forestry Commission report in 2006.⁴¹

The National Forest Policy 1894:

The first Forest Policy took up by British Colonial Government in 1894 designed for a custodial and timber-oriented management. Its main features were as follows-

1. Management of the forests was encouraged for the overall well being of the country.
2. The necessity for maintaining of adequate forests cover was accepted for the safeguarding of the climatic and physical conditions of the county and for the fulfilment of people's basic need subject to the subsequent conditions-
 - Permanent cultivation should be prioritized before the forestry.
 - The fulfilment of the needs of the local people should be at noncompetitive rates, if not free, and should override all considerations of revenue.

⁴⁰Anonymous, National Forest Policy (September 20th , 2018)
<http://www.moef.nic.in/sites/default/files/jfm/jfm/html/national.htm>

⁴¹Aditya Kumar Joshi, Pallavi Pant, Prasant Kumar, Amarnath Giriraj, Pawan Kumar Joshi, National Forest Policy in India: Critiques of Target and Implementation, Small Scale Forestry(September-29,2018). 2010)https://www.researchgate.net/publication/202780931_National_Forest_Policy_in_India_Critique_of_Targets_and_Implementation.

- After the fulfilment of above conditions, then only the recognition of maximum revenue should be the guiding factor.

Although the 1894 policy encouraged the requirement of meeting the needs of local communities, it focused on maximizing revenue generation, therefore, practically the forest management became more revenue oriented. The 1894 policy also classified forests as per their primary function that is protection, commercial production, minor forests and pasture lands.⁴²

The Forest Policy, 1894 advocated that the 'claims of cultivation is stronger than the claims of forest preservation' for all type of forests. In addition to it, the policy maintained the notion that the forestry as such had no such innate right to the land and may be permitted on residual lands not required for any other purpose. Hence, the forest policy had its main concern on the growth of agriculture over forestry which not only lead to the obliteration of forests from which local inhabitants should have acquired their timber and fuel but "also made the land lose its natural defense" from erosion by wind and water. Whenever, the land for agriculture was required for the obtaining of food for the increasing population, the forest area was put up for the agriculture use. This was its major drawback because it prioritized agriculture over forestry and put a hold on the forest conservation for the promotion of agriculture which resulted in large scale clearing up of the forest lands for agriculture and other purposes.

The policy also advocated the State control over the forests and the necessity for exploiting forests for enhancing State revenue. Furthermore, the policy constrained the privileges of users in the forest areas. It is obvious from the statement that the forests of substandard quality should be managed mainly in interest of local population, with care being taken to "protect people from their own improvidence". The rights of people were taken away and they were alienated from forest management.⁴³

The National Forest Policy 1952:

After the Independence, in 1952, a new Forest Policy was announced which was considered necessary to balance changes that occurred during the period since the enunciation of first forest policy in 1894. This policy of 1952 largely removed the defects in the earlier policy. Various

⁴² A Bhatia, Forests Acts, Policies and Land Settlements, Vol. IV Participatory Forest Management: Implications for Policy and Human Resources' Development 201, 201-202 (1999).
http://lib.icimod.org/record/23461/files/c_attachment_234_2518.pdf

⁴³ http://shodhganga.inflibnet.ac.in/bitstream/10603/121392/12/12_chapter%204.pdf

vital changes in Policy direction were indicated in this new policy, including expanded attention towards contribution of forestry in Industrial development. The priority that had been given to agricultural contemplations in the 1894 policy was considerably updated.⁴⁴

It was stated that the basis of the National Forest Policy of 1952 would be the paramount national needs of the India such as ⁴⁵

1. The need of evolution of the system of complementary and balanced land use.
2. The need of keeping a check on
 - Denudation in mountainous regions
 - Invasions of sea sand in the costal tracts and erosion on the banks of rivers.
3. The need of amelioration of climatic and physical conditions.
4. The need of securing the increased supply of grazing, small wood and firewood.
5. The need of a sustainable supply of forests produces such as timber etc to defence, communication and industries.
6. The need of realisation of the maximum actual revenue in perpetuity consistent with all the above needs.

As a result, classification of the forestry was done and they were divided into protection forests, national forests, village forests, and tree lands. The protection forests were those situated on mountain slopes, river banks, etc, where the forest cover was dominated solely by protective physical considerations, such as prevention of erosion, conservation of fertile soil and control of gushing torrents and floods. National forests comprises of the basis of India's wealth that yields important timber essential for defence, communications and other important industries.

Village forests were mainly fuel forests planned to serve the requirements of the surrounding villages in respect of small timber for housing and agricultural implements, firewood, leaves for manure and fodder, grazing, etc. These forests were to be managed mainly to meet the wants of the local population. Tree lands were essentially for ecological purposes. The forest department was directed to popularize the construction of tree lands in agricultural areas.

⁴⁴ George F. Taylor, *The Forestry/Agriculture Interface: Some Lessons From Indian Forest Policy*, Vol. 60 *The Commonwealth Forestry Review* 48, 45-52 (March 1981) <https://www.jstor.org/stable/42607811>

⁴⁵ Sharad Kulkarni, *Forests : Laws versus Policy*, Vol. 24 *Economic and Political Weekly* 859, 859-862 (April 22, 1989) <https://www.jstor.org/stable/4394698>

The National Forest policy of 1952 emphasized on the National interest and pointed that local interest should be subservient to national interest. However, in the name of national interest, government utilized the forest resources for the purpose of requirements of defence, communications and other important wood based industries and hence a close collaboration of influential groups such as industrialists, timber traders, agriculturists with the government spread all over the country which even though resulted in an enhanced income generation in the country but depleted the natural resources of the country. This was the main drawback of the 1952 policy as though it urged the emphasis on ecological and social forestry by urging balanced and harmonizing land use, increase in the supply of fuel woods and grazing needs but in practicality, the government was against it. In larger parts of India large fragments of ecologically sensitive areas were ruined to make way for big industrial projects such as power, mining, irrigation and other ventures and for infrastructure like roads and railways. As a result, huge areas of forest were cleared to raise revenue for the State.⁴⁶

Therefore the arrangement in the 1952 National Forest Policy of India, though was the harbinger of the green development in the nation as it recommended mainly that 60% of the land in the hills and 20% in the fields and in all of the 33% of the aggregate geographical region ought to be under forests/tree cover but it effected in extreme consumption of forests resources because of biotic, industrial and other different reasons which was detrimental to the national interest. This made the policy maker audit the circumstance in the late eighties and develop another system for protection of forests.

The Central Board of Forestry (CBF) recommended the Government of India for establishing a National Commission on Agriculture (NCA) with the aim to study the National Policy and the board also recommended for a revised National Forest Policy. As a result, the government constituted the NCA which recommended certain need to be enunciated in the National forest Policy but the recommendation of NCA was found wide range lacuna at the interest of forest dwellers. In 1980, the Draft of the Indian Forest Bill was commenced as per the recommendation of NCA. However, the provisions of the bill recognised the state's right over forest lands and forest produce and ignored the rights of large sections of communities especially those who has been connected with forest produce. It also denies the real worth of

⁴⁶ Anonymous, Perspectives and Policies on Forest Management in India: Special Reference to Orissa, Shodhganga 36, 35-37 (n.d) http://shodhganga.inflibnet.ac.in/bitstream/10603/21724/9/09_chapter%201.pdf

forest as a source of livelihood for millions of poor. These were the drawbacks of the Bill as a result of which NCA conducted a meeting with various states' forest ministers to discuss such criticism. This led to formulation of a new draft forest policy which required the public participation for its formulation and implementation so that a "symbiotic relationship" between the forests and the forest dwellers could be established (According to a report by the committee on Forests and Tribals in India where it was also recommended that no developmental activities should have taken place at forest areas without the development of the forest dwelling communities.). This led to the establishment of the National Forest Policy of 1988.

The National Forest Policy of 1988:

The National Forest Policy of 1988 was the turning point of Forests Management in India which is broadly focused on environmental stability, restoration of ecological balance and preservation of biological diversity of the country. Apart from this, checking soil erosion and increasing tree cover are the two other important objectives of the policy.

The basic objectives that govern the 1988 National Forest Policy are:⁴⁷

- Maintenance of environmental stability through preservation and, where necessary, restoration of the ecological balance that has been adversely disturbed by serious depletion of forests of the country.
- Conserving the natural heritage of the country by preserving the remaining natural forests with the vast variety of flora and fauna, which represents the remarkable biological diversity and genetic resources of the country?
- Checking soil erosion and denudation in the catchment areas of rivers, lakes, reservoirs in the interest of soil and water conservation, for mitigating floods and droughts and for the retardation of siltation of reservoirs. Also checking the extension of sand dunes.
- Increasing substantially the forest/tree cover in the country through massive afforestation and social forestry programmes, especially on all denuded, degraded and unproductive lands.

⁴⁷ Anonymous, National Forest Policy (September 20th , 2018)
<http://www.moef.nic.in/sites/default/files/jfm/jfm/html/national.htm>

- Meeting the requirements of fuel wood, fodder, minor forest produce and small timber of the rural and tribal population.
- Increasing the productivity of forests to meet essential national needs.
- Encouraging efficient utilization of forest produce and maximizing substitution of wood.
- Creating a massive people's movement with the involvement of women, for achieving these objectives and to minimize pressure on existing forests⁴⁸.

The forest Policy of 1988, for the first time, provided for involving of people, especially women, for catering its objectives. Also, while addressing the needs of the communities depending on the forests, the policy also pointed the proper management of the non-timber based products. It is relevant to not that the main emphasis of the policy was on the active participation of people in achieving the objectives of the policy covering the sustainable management approaches subsequently provided in the 1992 Rio-Forest Principles⁴⁹. The policy along with Forest (Conservation) Act, 1980 helped in stabilization of country's forest area over the last two decades in spite of huge demand on forest land for development and the ever increasing pressure for forest produces. Thus, the 1988 National Forest Policy (NFP) was evolutionary and visionary in its scope and ambition, where priority was given to maintaining the "ecological balance of the nation as vital for sustenance of all life forms."

The Draft National Policy 2018:

Various changes that have occurred throughout the time, ever since the National Forests Policy of 1988 was enunciated, has sparked the debate of requirement of a new forest policy.⁵⁰ As a result, the Government of India, for revamping the National Forest Policy which was

⁴⁸ Archana Vaidya, a history of forest regulation, available at: <http://zinfochangeindia.org/environment/backgrounder/a-history-of-forestreduations.html> (last visited on: Sept.28, 2018)

⁴⁹ PoojaMoundyal, Summary of Forest Protection Act (1927) of India, available at: <http://www.yourarticlelibrary.com/law/acts/summary-offorest-protection-act-1927-of-india/30188/> (last visited on: Sept. 29, 2018).

⁵⁰ Pia Sethi, Does India need a new forest policy?, Hindustan Times, (Sept 27, 2018) <https://www.hindustantimes.com/analysis/does-india-need-a-new-forest-policy/story-ME3Ssg1o3TI8wPQ8I8EH5K.html>

announced 30 years ago, announced the draft National Forest Policy Bill in 2018.⁵¹ The new draft policy aims to address the new issues of climate change, human animal conflict and declines green cover. The draft aims at bringing the one third of demography of India under the forest cover through scientific interventions and for enforcement of strict rules to protect these covers. The striking aspect of the draft is its emphasis on international challenge on climate change. The Draft also proposes for the taking up of public-private participation models for undertaking afforestation and reforestation activities. The draft provides for the safeguarding of the forest land by exercising strict restraint on diversion for non-forestry purposes, and strict oversight on compliance of the conditions. However, the policy draws an eye of critics because it involves private concerns for afforestation activities which would mean it would result in privatization of India's natural resources and creating private forests. Also, the draft focuses more on the conservation and preservation of forest wealth rather than regenerating them through public participation. The draft also doesn't provide for mechanisms on how its objectives will be achieved considering the competitive demands for forestlands. However, the draft is still open for public comments and will replace the policy of 1988, once it comes to force.

CONCLUSION

The present project has emphasized about the entire major protection laws of forest; the British period has made many laws for the purpose of getting revenues. Forests and the products they provide are universally required for the continuation of human society as we know it. To change our society to one that does not depend on the forest and its associated benefits requires such an enormous paradigm shift that we generally do not even consider it worthy of further investigation. Given this situation therefore, it is imperative that we discover mechanisms to manage the forest for all the benefits it can provide, in a sustainable manner. The first step was taken in the form of Indian forest Act, 1927 which major motive is to notified the forests in the different categories and also to ensure that till what extent the government can interfere in the

⁵¹ S. Gopikrishna Warriar, India's new forest policy draft draws criticism for emphasis on industrial timber, Mongabay (Sept.29 2018) <https://news.mongabay.com/2018/04/indias-new-forest-policy-draft-draws-criticism-for-emphasis-on-industrial-timber/>

matter of private forest and how the notification was made for reserved forest, sometime I feel the state interfered in the private affairs as well.

A major shift in the post-independence forest management regimes occurred with the enunciation of Forest (Conservation) Act in 1980. The Act was enacted to regulate the large scale diversion of forest land for non-forest purposes. However, it failed to provide a blanket ban on such diversion. As a result, large tracts of forests have continued to be diverted for agriculture, mining, as well as for development purposes, like dams causing destruction of forests. Besides, the law was also blamed for curtailing the rights of local communities. In 1988 a new National Forest Policy was initiated by the Government of India, which marked a major departure from 1952 policy by laying prime emphasis on environmental stability and conservation of forests, while meeting the domestic requirements of fuelwood, fodder and minor forest produce for rural and tribal population, What I find as the concluding remark that we have to implement the forest laws very strictly and all the organs of the administration must work in a normative approach to get a proper outcome from the forest laws because laws are useless without the element of implementation and remedies.

RECOMMENDATIONS

1. Database on forests should be strengthened to make forest planning more effective,
2. There must be separate data on plantations as well as on natural forests in the forest cover assessments to reflect-actual changes in forest cover of the country
3. There should be proper accounting of various ecosystem goods and services provided by forests to assess the true contribution of forests to the economy.
4. There should be reorientation of existing legislations on environment and forests and necessary provisions should be made to make them more stringent in their implementation.
5. The polluters should be made to pay equal to the amount of pollution through increased use of market instruments.
6. The judiciary should take normative approach to deal with the forest laws cases .

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