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The Indian Forest Governance Framework: A Historical & Critical Analysis (2020)

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Table of Contents

A. Introduction	2
B. Research Methodology	2
C. Forest Legislations & Policy Frameworks	3
The National Forest Policy, 1894	4
The Indian Forest Act, 1927	4
The National Forest Policy, 1952	6
The Forest (Conservation) Act, 1980	7
The National Forest Policy, 1988	7
The Scheduled Tribe And Other Traditional Land Dwellers (Recognition Of Forest Rights) Act, 2006	8
The Draft National Policy, 2018	9
D. Landmark Judgements	10
N. Godavarman Thirumulkpad v. Union Of India (1995)	10
Centre For Environmental Law (CEL), WWF v. Union Of India And Ors. (1995)	10
Sri Ram Saha v. State Of West Bengal (1998)	11
T.N. Godavarman Thirumulpad v. Union of India (2002)	11
Lafarge Umiam Mining Private Limited v. Union of India (2011)	11
Orissa Mining Corporation v. Ministry of Environment & Forest (2013)	12
T.N. Godavarman Thirumulpad v. Union of India & Ors (2014)	12
Hanuman Laxman Aroskar v. Union of India (2019)	12
E. Contemporary Developments & Challenges	13
Covid-19	13
Global Warming	13
Technological Advancements	13
Legislations	14
Global Outlook	14
F. Conclusion	15
Recommendations	15
G. Bibliography	16
Articles, Books & Research Papers	16
Bills, Acts & Policy Documents	17
Case Laws	19

A. Introduction

This paper is aimed as a comprehensive and practical guide to the core aspects of current legislation in forestry. It seeks to identify a number of issues to be addressed in evaluating the adequacy of forest laws, and thus provide recommendations for addressing these issues in ways that can enhance the efficacy of legislation as a basis for sustainable forest management.

India's forest governance framework has been heavily shaped by the interactions between colonial and feudal legacies, post-independence development imperatives, and a gradually deepening awareness of environmental conservation principles. This paper argues that although the evolution of Indian forest law has increasingly gravitated towards models of management that emphasise sustainability and community participation, this transformation remains piecemeal and incomplete. The colonial-era emphasis on state control and revenue extraction continues to exert a significant influence, casting a persistent shadow over contemporary governance structures, even as more recent legislative efforts and judicial interventions have attempted to refocus towards the objectives of ecological integrity and equitable distribution of resources.

Until the beginning of the British colonial era, forests were held by the various tribal peoples of India, but were subsequently cut down en masse and used during the colonial period as a means of revenue generation via industry and agriculture. The pattern continued: to meet the agricultural, revenue, industry, shipbuilding, iron smelting, and tanning needs of the Empire. For the use of the English Royal Navy, oak trees were cut and transported to England as the "safety of the empire depended on its wooden walls".¹ In India, British rule was fundamentally an era in which forests were heavily ravaged and denuded and the canopy of vegetation began to decline substantially.

In the present day, subsequent to several policy and legislative interventions in the post-Independence period, India's forest governance framework has several glaring lacunae. As the country deals with several challenges: posed by climate change, the COVID-19 pandemic, and persistent implementation gaps, a critical reassessment of the framework is imperative. This paper argues that a more integrated and adaptive approach to forest management is needed, one that prioritises ecological sustainability, community empowerment, and intersectoral coordination. By utilising new technologies, fostering public-private partnerships, and investing in environmental education, the country can work towards a future where its forests are not merely preserved, but allowed to thrive.

B. Research Methodology

This paper adopts a doctrinal research methodology to trace the historical and contemporary evolution of Indian forest law and policy, spanning from the colonial era to the present day. Through a systematic and critical examination of specific statutory provisions and judicial pronouncements, the research seeks to analyse the current state of the law, while simultaneously evaluating its internal coherence, practical effectiveness, and broader implications for forest governance in India.

The analysis primarily relies upon a series of key legislative instruments. These statutes, which collectively form the cornerstone of India's forest regulatory framework, are examined alongside key judicial interventions, both of which have significantly shaped the interpretation, implementation, and evolution of forest-related legal provisions over time in India. Further, the research relies on a range of secondary materials, including academic

¹ Madhav Gadgil (1981), 'Sacred Groves of Maharashtra an Inventory'. Available at ResearchGate: <https://www.researchgate.net/publication/360860054_Sacred_groves_of_Maharashtra_an_inventory>.

commentaries and policy reports. These are utilised to establish the legal developments within a broader socio-political and environmental context, thereby facilitating a more nuanced understanding of how forest governance in India has been shaped by various intersecting forces.

Rather than merely offering a descriptive account of legal provisions, the paper adopts a critically evaluative lens, seeking to assess not only the legal framework's attributes: but also its implications, inherent limitations, and potential for reform. The conclusions and recommendations, which emerge from doctrinal analysis and insights gained from secondary sources, are intended to make a meaningful contribution to the ongoing discourse around sustainable forest governance in India.

A key limitation of this study is in its methodological emphasis on qualitative analysis. While quantitative data is incorporated to support certain aspects of the analysis, the paper does not engage in a systematic empirical evaluation of the practical impacts of forest laws and policies. Future research could perhaps enhance the insights provided by this doctrinal analysis, while empirically examining specific forest communities or regions. But despite this methodological constraint, the approach employed here aims at a deep and rigorous evaluation of the legal and policy frameworks that govern forest governance in India, seeking to provide a reliable foundation for subsequent research and informed policy recommendations.

C. Forest Legislations & Policy Frameworks

The first attempts at regulation of Indian forests began in earnest in South India, where the British made their first formal attempt to assert control. In 1865, the Forest Act² was enacted to support the imperial cause, and the forest department was created. The primary object of this Act was to encourage the acquiring of Indian forest areas in order to supply timber to the nascent railways projects, and to secure the state's claim to forested areas. It granted the colonial government the authority to designate any land covered with trees as government forests, thereby ostensibly empowering it to issue regulations aimed at their protection. However, there were no provisions in the Act to secure the established rights of the tribal and nomadic communities which lived in the forests.

Soon, it was found that the Act's measures were not effective because it lacked deterrent penalties and gave the forest officers only minimal authority. Therefore a new Act was passed in 1878³ after major discussions, establishing full state control and ownership rights over forests. It also partially acknowledged the rights of forest dwelling tribals and other communities in different regions. Some limited rights of villagers in the Himalayan region, tribals in Chhattisgarh, Santhals in Midnapore, Bhils in Rajasthan, and other communities in the North-Eastern regions were provided for.

Largely, the 1878 Act further curtailed the traditional rights of local populations over forest land, particularly in the newly designated reserved and protected forests, where access and use were heavily regulated. By restricting these rights, the Act significantly empowered the colonial government to manage forest resources with greater authority and oversight, a shift that not only reflected the British desire to maximise revenue and resources but also marked a decisive moment in the history of forest governance in India.

² The Forest Act, Act No. VII of 1865 (India). Available at: <<https://library.ignfa.gov.in/book/FOREST%20POLICY%20&%20LAW/INDIAN%20FOREST%20ACT%201865%20&%201878.PDF>>.

³ The Forest Act, 1878, Act No. VII of 1878 (India). Available at: <<https://www.indiacode.nic.in/repealedfileopen?rfilename=A1878-7.pdf>>.

The National Forest Policy, 1894

The first official governmental move towards forestry can be traced in the adoption of the National Forest Policy of 1894, which ostensibly centred on the protection of forests to preserve environmental stability, and to satisfy the basic requirements of tribal groups. In 1894, the colonial British Government implemented this first Forest Policy, intended for custodial and timber-oriented governance. Its key features were as follows:

1. Management of the forests was encouraged for the general well-being of the country.
2. The need for sufficient forest cover to be preserved was agreed upon, for the protection of the environment and physical conditions of the county, and for the fulfilment of the basic needs of citizens, but subject to the following conditions:
 - a. Before forestry, **permanent cultivation should be prioritised.**
 - b. The fulfilment of local people's needs should be at non-competitive rates, if not free, which should transcend all revenue considerations.
 - c. The **guiding factor should be the acquiring of full revenue**, only after meeting the above criteria.

While the Policy promoted the need to meet the needs of local communities, it concentrated on optimising revenue generation, so forest management became more revenue-oriented in practice. The 1894 policy also categorised forests as protected, commercial-development, minor forests, and pasture lands according to their primary purpose.

The Policy claimed that for **all forest types, the “claims of cultivation are stronger than the claims of forest preservation”**. In addition, the policy retained the notion that forestry, strictly speaking, had no such intrinsic right to land, and that residual land not needed for any other purpose could be permitted to be utilised for forestry purposes. Therefore, the Policy was mainly concerned with the growth of agriculture (and revenue) over forestry, which not only led to the degradation of forests from which local people expected to obtain their basic resources, but also made the land lose its natural protection from wind and water erosion.

The Indian Forest Act, 1927

A new comprehensive Forest Act was enacted in 1927⁴ to make forest laws more effective and to expand the Forest Act, 1878, which repealed all previous legislations. There were 86 parts divided into 13 chapters in the Act, with the key objectives being as follows:

1. Consolidation of the laws concerning forests.
2. Control and transit of the production of forest products.
3. Imposition of duties on timber and other output of forests.⁵

There was no definition of the word ‘forest’ in the Act, but it was later defined by the Allahabad High Court⁶ as “all lands with vegetative association demarcated by trees of any size, whether or not exploited, capable of producing wood or other food products”.

⁴ The Forest Act, Act No. XVI of 1927 (India). Available at: <<https://forest.and.nic.in/WebPages/ActsNRules/IFA-1927.pdf>>.

⁵ Vasant Desai (1991), ‘Forest Management in India’, Himalaya Publishing House. Available at: <https://iimsucat.iimb.ac.in/cgi-bin/koha/opac-detail.pl?biblionumber=851502&shelfbrowse_itemnumber=1405059>.

⁶ Rangarajan M. (1996), Fencing the Forests, Oxford University Press. Available at: <<https://www.jstor.org/stable/3985628>>.

Section 2 of the Forest Act, 1927 specified certain words such as the word ‘cattle’ which includes almost all animals, and the word ‘forest produce’ which includes timber, charcoal, wood-oil, etc; but ‘ivory’ was not included in the forest produce, so it was not possible to confiscate a vehicle used to transport ivory. It also laid down some provisions for the imposition of timber duty, which later became a major source of government revenue. All major provisions of the earlier Act were included in the Indian Forest Act, 1927. The model Act for individual states to frame the State Forest Acts⁷ was also this Act.

1. **Reserved Forests:** Reserved forests were dealt with in Chapter II of the Act, as an area or land mass properly notified under Section 20, or under the reservation provisions of the State Governments of the Indian Union’s Forest Acts. It was within the jurisdiction of the State Government to issue a preliminary notice pursuant to Section 4 of the Act, declaring that it had been decided to incorporate such land into the Reserved Forest, as stated in the Schedule, with specifics of its location, area and description of the boundary. An officer of the State Government, usually the Deputy Commissioner of the district concerned, was also appointed as the Forest Settlement Officer⁸ for such notification.
2. **Village Forests:** Chapter III of the Act dealt with village forests. The government could grant the rights over land that may be part of a reserved forest for the use of the community to any village community. Forest group lands were typically integrated into the Village Grazing Reserve (VGR), and parcels of land so notified were marked on the villages’ settlement revenue charts.
3. **Protected Forests:** In Chapter IV of the Act, protected forests were dealt with, designated as areas or masses of land that were not reserved forests, and over which the Government was entitled to property rights, as declared by the Government of the State pursuant to the provisions of Section 29. A lengthy and exhausting settlement process, as in the case of the declaration of a reserved forest, was not necessary. However, if such a declaration violated the rights of an individual, it could have been prosecuted by the Government, and pending such investigation, such rights of individuals or groups may not be abridged or impaired by the declaration. Furthermore, in a protected forest, the Government could for a term not exceeding 30 years, issue notifications declaring certain trees to be reserved, or suspend private rights (if any), or prohibit quarrying, removal of any forest produce, breaking of ground, etc.

Criticism of the Act

The Act gave authority over both public and private forests to the states, and encouraged the exploitation for profit of timber. An inquiry into the act shows that the act never intended to preserve India’s vegetation cover, but was enacted to:

1. regulate trees for cutting, and
2. generate revenue from the harvesting of the timber and the produce from the forest.

In addition, the nomadic and tribal communities were also stripped of their age-old rights and privileges to use forests and forest resources. The Act was primarily intended to facilitate the supply of raw materials for forest-based industries. The Act of 1927 failed miserably to defend forests against unscientific and unplanned exploitation. It also denied the local and tribals common ownership or occupancy or property rights. Instead,

⁷ Handbook of Forest (Conservation) Act, 1980 (India). Available at: <<https://forest.odisha.gov.in/act-rule/forest/central-act-%26-rules>>.

⁸ The Gazette of India, 27 December, 1980 (India). Available at: <https://www.mha.gov.in/sites/default/files/2022-09/National_Security_Act1980%5B1%5D.pdf>.

forests were deemed to be the government's property and the Land Settlement Officer had every right to determine the claim in the event of disputes.

However, even after independence, the revenue-oriented disposition towards the forest persisted, and in 1949, forests were put on the Constitution's state list (as per the seventh schedule). In compliance with the Indian Forest Act of 1927, forest departments of individual states continued to wield immense control over forests.

The National Forest Policy, 1952

A new forest policy⁹ was declared after Independence in 1952, which was deemed appropriate to balance changes that took place during the time after the first forest policy was enunciated in 1894. Several defects in the earlier colonial policy were largely eliminated by this 1952 policy, and the following targets were set:

1. The need for the establishment of a complementary and sustainable land use system.
2. The need to keep an eye on denudation in mountainous terrain, sea sand invasions in the coastal tracts, and deforestation on river banks.
3. The need for environmental and physical conditions to be improved.
4. The need for the increased supply of grazing, small wood and firewood to be secured.
5. The need for a sustainable supply of forest production for defence, communication and industries, such as timber, etc.
6. The need to evaluate, in due course, the overall actual revenue compatible with all of the above needs.

Forests were functionally classification as follows:

1. Protection forests: those forests which must be preserved or created for physical and climatic considerations.
2. National forests: those which have to be maintained and managed to meet the needs of defence, communications and other general purposes of public importance.
3. Village forests: those which have to be maintained to provide firewood, to release cow dung for manure and to yield small timber for agricultural implements and other forest produce for local requirements, and to provide grazing for cattle.
4. Tree-lands: those areas which though outside the scope of the ordinary forest management are essential for the amelioration of the physical conditions of the country.

The government continued using forest resources for the purpose of defence, communications and other essential wood-based industry requirements, and hence a strong cooperation of influential groups such as manufacturers, timber traders, and farmers with the government spread throughout the nation, which while resulting in increased revenue generation, simultaneously depleted the natural resources of the country. Subsequently, the National Commission of Agriculture (1976) defined the objective of commercial forestry as being the growth of production of timber, fuel wood and other forest products as a business enterprise.¹⁰

This was the key downside of the policy of 1952: in thesis, it urged the emphasis on ecological and social forestry by encouraging balanced and harmonious land use, increasing the availability of fuel forests and grazing requirements, but the government was against it in praxis. Large fragments of ecologically sensitive

⁹ The National Forest Policy, 1952 (India). Available at: <<https://indiankanon.org/doc/59409913/>>.

¹⁰ Report of the National Commission on Agriculture, 1976 (India). Available at: <<https://dSPACE.GIPE.AC.IN/xmlui/bitstream/handle/10973/52478/GIPE-164088-Contents.pdf?sequence=2&isAllowed=y>>.

areas were ravaged in significant parts of India to make way for large industrial projects such as electricity, mining, irrigation and other industries, and for infrastructure such as roads and railways. As a result, vast areas of forest were cleared for the State to collect revenue,¹¹ and the indigenous communities' rights and interests continued to be largely ignored as under the 1894 policy. In the late eighties, this prompted policy makers to re-evaluate, and establish another forest conservation policy.

The Forest (Conservation) Act, 1980

In 1980, a new law was enacted by Parliament¹² in response to the rapid decline in forest cover in India, and also to fulfil the Constitutional duty under Article 48-A,¹³ (the protection and improvement of environment and safeguarding of forests and wildlife). In October 1980, the President promulgated the Forest (Conservation) Ordinance, 1980¹⁴ in order to control further deforestation.

The Ordinance was later replaced by the Forest (Conservation) Act, 1980, which was also passed with a view to deforestation regulation. The basic object of the Act was to provide for forest protection. Under the provisions of this Act, for non-forestry purposes, prior approval by the central government was mandated necessary for the transfer of forest land. This Act therefore prohibited, in the national interest and in the interest of future generations, the diversion of forest land for non-forestry purposes. 'Social forestry' was deemed to consist of five elements: community, farm, extension, agro, and recreational.

The fundamental purpose of the Act was to control the indiscriminate diversion of non-forestry forest land and to establish a logical balance between the country's developmental needs and the protection of natural heritage.

The National Forest Policy, 1988

The National Forest Policy of 1988 was a pivotal moment for India's forest management, focused broadly on environmental sustainability, ecological balance, and restoration and preservation of the country's biological diversity. In addition to this, two other essential goals of the policy were: controlling soil erosion, and increase in tree cover. The basic objectives of the policy were as follows:¹⁵

1. Preserving environmental stability and where possible, restoring the ecological equilibrium that has been adversely affected by the severe degradation of the country's forests.
2. Conservation of the country's natural heritage by preserving the remaining natural forests with a wide variety of flora and fauna, representing the country's remarkable biological diversity and genetic resources.
3. Checking soil erosion and denudation in river catchment areas, wetlands, reservoirs for soil and water management purposes, prevention of floods and droughts, and inhibition of reservoir siltation. The extension of the sand dunes would also be analysed.
4. Substantially increasing the country's forest/tree cover through massive forestry and social forestry programs especially on all denuded, degraded and unproductive lands.

¹¹ Rajkumar Khosla (2006), 'Perspectives and Policies on Forest Management in India: Special Reference to Orissa.' Available at: <http://shodhganga.inflibnet.ac.in/bitstream/10603/21724/9/09_chapter%201.pdf>.

¹² The Forest Conservation Act, 1980 (India). Available at: <https://www.indiacode.nic.in/bitstream/123456789/19381/1/the_forest_%28conservation%29_act%2C_1980.pdf>.

¹³ Article 48A, the Constitution of India, 1949. Available at: <<https://indiankanoon.org/doc/871328/>>.

¹⁴ The Forest (Conservation) Ordinance, 1980 (India).

¹⁵ National Forest Policy, 1988 (India). Available at: <https://mpforest.gov.in/img/files/Policy_NFP.pdf>.

5. Meeting the requirements of rural and tribal communities for fuel wood, forage, limited forest production and small timber.
6. Growing forest production in order to fulfil critical national needs.
7. Encouraging good forest produce use and optimising wood replacement.
8. Creating a large movement of people, involving women, to achieve these goals and to minimise the pressure on existing forests.

Together with the Forest (Conservation) Act, 1980, the policy helped to largely stabilise the forest area of the country over two decades, despite the enormous demand for forest land for development and the ever-increasing pressure for forest production. Thus in its scope and ambition, the 1988 National Forest Policy (NFP) was transformational and visionary, where priority was given to maintaining the ecological balance of the nation.

The Scheduled Tribe And Other Traditional Land Dwellers (Recognition Of Forest Rights) Act, 2006

In December 2006, the Lok Sabha as well as the Rajya Sabha almost unanimously adopted the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.¹⁶ This law was intended to grant traditional forest inhabitants ownership rights over forest land.

This was followed by the notification by the Ministry of Tribal Affairs of the *Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007*¹⁷ to complement the enforceability of the Act. As an autonomous ministry, the Ministry of Tribal Affairs was formed in 1999 to deal specifically with scheduled tribes. Having “primitive features, living in geographical isolation, having a distinct history, being shy of interaction with the outside world and being economically backward” are the conditions for classifying a tribe as “scheduled”. The nation has more than 600 officially listed scheduled tribes, representing less than ten percent of the total population of the country, and with little more than two percent believed to live in forests. As given under the Act, the list of rights includes:

1. Right to live in the forest for housing or self-cultivation for livelihood under an individual or common occupation.
2. Right of access, use or disposal of smaller forest products.
3. Entitlement privileges such as grazing and conventional access to seasonal resources.
4. Rights to turn leases or grants granted on forest land by any local authority or any state government into titles.
5. Right to preserve, restore or maintain or control every forest resource in the community.

Criticism of the Act

The Act was one of the most contentious and fiercely opposed legislations in independent India, creating substantial controversy since the bill was first drafted and introduced in parliament. It was perhaps the first and only legislation in India’s history that was opposed by a TV campaign: Vanashakti¹⁸, an NGO based in Mumbai, ran TV ads against the Act in October 2003.

¹⁶ The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (India). Available at: <<https://www.indiacode.nic.in/bitstream/123456789/8311/1/a2007-02.pdf>>.

¹⁷ The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007 (India). Available at: <<https://faolex.fao.org/docs/pdf/ind206156.pdf>>.

¹⁸ Vanashakti NGO, Mumbai (India). Available at: <<https://vanashakti.org/about-us>>.

The wildlife protection lobby and several bureaucrats from the Ministry of Environment, Forest and Climate Change, who called it the perfect formula to ensure the destruction of the wildlife habitats of India by “legalising invasions”, vehemently opposed the Act.¹⁹ They stated that major construction projects, such as large dams, power plants and mining operations, etc., need to be regulated in a better manner: instead of forcible displacement of conventional forest-dependent communities, in the name of preserving the forests. In the meantime the more vocal green groups warned about the land mafia misusing the provisions of the proposed law to confront vulnerable tribals with land rights in prime forest areas to part with their land.

Support for the Act

Supporters of the Act took the view that the Act was not a measure of land allocation, and that the Act was more transparent than the previous legislations, and would therefore help avoid land-grabbing. With regard to wildlife conservation, they also claimed that the Act explicitly offered a simple and explicit mechanism for resettling people where appropriate for the preservation of wildlife, but also specified provisions to prohibit arbitrariness and unfairness in such decisions.

The Draft National Policy, 2018

The latest draft legislation seeks to resolve the contemporaneous issues of climate change, animal rights, and the loss of green coverage.²⁰ The aim of the draft is to put one third of India’s population under forest cover through scientific interventions and to impose strict rules for the security of such cover. Its focus on the global issue of climate change is a key feature of the draft, and it also recommends that public-private participation frameworks for afforestation undertakings and reforestation programs be adopted. It further provides for the protection of forest land through the exercise of strict restrictions on diversion for non-forestry purposes, and strict supervision of compliance with conditions.

The policy proposal, however, has also drawn critics’ attention because it involves private interests regarding afforestation operations, which perhaps can lead to the privatisation of the natural resources of India and the creation of private forests.²¹ In addition, rather than regenerating forests through public participation, the draft focuses more on the conservation of existing forest wealth, while also failing to provide frameworks for how its goals can be accomplished in the light of competitive forestland demands.

The draft is still open to public consultation, however, and will replace the 1988 policy once it comes into effect. As of 2024, it has not been formally implemented, and India continues to operate under the 1988 National Forest Policy.

¹⁹ Forest Sector Report India (2010), Council of Forestry Research and Education, Dehradun, Ministry of Environment and Forest, Government of India. Available at: <https://www.icfre.org/FSRI-REPORT_English.pdf>.

²⁰ Draft National Policy, 2018 (India). Available at: <https://smartnet.niua.org/sites/default/files/resources/draft_national_forest_policy_2018.pdf>.

²¹ Sushant Agarwal (2018), ‘National Forest Policy Draft 2018 Takes One Step Forward, Two Steps Back’. Available at: <<https://science.thewire.in/environment/national-forest-policy-draft-2018-takes-one-step-forward-two-steps-back/>>.

D. Landmark Judgements

In conserving the environment and the natural ecosystems, the courts in India have played a dynamic role. In a series of cases, directions and orders have been mandated by the Supreme Court of India to tackle environmental degradation.

N. Godavarman Thirumulkpad v. Union Of India (1995)

This particular case²² has been instrumental in India's forest conservation movement, while representing the country's single largest case relating to judicial activism in forest policy. The descriptions of 'forest' and 'forest property' in its various orders, the appointment of different committees and commissions, and reliance on the advice of experts on technical matters outside the authority of the judiciary, were some key methods used by the Court in the interests of justice.

The case has emerged as the largest judicial forum for all facets of forest management, and entailed definitions of several concepts, including: forest, work plans, sawmills, dams, logging, development projects, forest land use, and encroachment. The case's orders and their implications were not limited to any particular location or state, and the SC substantially reinterpreted the Forest (Conservation) Act, 1980.

Notably, the meaning of the word 'forest' was extended by the SC; prior to this order, regardless of whether it had tree cover or not, the term 'forest' was limited only to government designated forests. Previously, areas with substantial tree cover were not treated as forests, simply because they were not declared as 'forest' in government documents. As a result, large areas under significant forest cover remained outside the scope of the Forest (Conservation) Act, 1980. By its order however, the SC extended the word that now included not only forests as specified in the government record, but all areas that are forests in the dictionary sense of the term, regardless of the existence of ownership and classification thereof.

Centre For Environmental Law (CEL), WWF v. Union Of India And Ors. (1995)

This series of cases (with the original writ petition²³ being filed in 1995, and the latest judgement delivered in 2013), addressed the question of the settlement of rights in national parks and sanctuaries and under the Wildlife (Protection) Act, 1972²⁴, and some other issues. The Supreme Court divested the Central Government (with regard to forests) and the State Legislatures (with regard to national parks and sanctuaries) of all powers of dereservation/denotification by a single significant order. Thus, while the Godavarman case prohibited the non-forest use of forest land without the approval of the Central Government, the CEL forbade dereservation without the approval of the Supreme Court.

WWF v. Union of India, and other proceedings like the Godavarman judgement and the Centre for Environmental Law (CEL) judgement, have contributed to significant changes that have had a broad impact on forest conservation. These cases have been heard for over two decades now and are part of what is known as "continuing mandamus", whereby the courts continue to issue orders and instructions in order to control the operation of the executive, rather than passing final judgments. Some significant mandates have been as follows:

²² N. Godavarman Thirumulkpad v. Union of India, AIR 1997 SC 1228.

²³ The Centre for Environmental Law (CEL), WWF vs. Union of India and Ors., WP No. 337 of 1995.

²⁴ Wildlife (Protection) Act, 1972 (India). Available at:

<<https://tribal.nic.in/downloads/FRA/Concerned%20Laws%20and%20Policies/Wildlife%20Protection%20Act,%201972.pdf>>.

1. Without the permission of the Supreme Court, no forest, national park or sanctuary may be de-reserved.
2. In any National Park or Sanctuary, no non-forest operation is allowed except if prior permission has been obtained under the Forest (Conservation) Act, 1980.
3. In 2000, an interim order prohibited the clearance from any area containing a national park or sanctuary of any dead or rotting trees, vegetation, driftwood, etc. It was also directed that if any order to the contrary had been passed by any government of the State or by any other authority of the State, that order should be suspended.
4. New bodies, commissions and departments have been set up, such as the Central Empowered Committee²⁵ (CEC) and the Compensatory Afforestation Fund Management and Planning Authority²⁶ (CAMPA).

Sri Ram Saha v. State Of West Bengal (1998)

In 1998, the Supreme Court ordered²⁷ that an Expert Committee be set up by each State Government within one month from the date of the judgement, to define forest areas: irrespective of whether they are informed, acknowledged or listed under any statute, and irrespective of the ownership of the forest land. The Committee would also identify areas that were former forests but were degraded, depleted or cleared, and also areas covered by government-owned and private-owned plantation trees.

The SC also gave overarching mandates, holding that the Forest Protection Act of 1980 was enacted with a view to control deforestation, and thus all forests, regardless of the existence of their ownership or classification, must be protected by the provisions made therein for forest conservation and related matters.

T.N. Godavarman Thirumulpad v. Union of India (2002)

This case²⁸ further expanded on the 1996 Godavarman judgement, focusing on mining activities in forest areas. The Supreme Court ordered the closure of mines operating without proper clearances, emphasising the need for strict adherence to environmental regulations. The Court mandated that all mining operations in forest areas must obtain approval under the Forest (Conservation) Act, 1980, regardless of when the mining leases were granted. Significant mandates:

1. The supremacy of environmental laws over mining interests was reinforced, while establishing that even pre-existing mining leases require forest clearance.
2. The role of the Central Empowered Committee (CEC) in monitoring forest-related issues was strengthened, and the need for sustainable development in forest areas emphasised.

Lafarge Umiam Mining Private Limited v. Union of India (2011)

The judgement²⁹ is significant for its attempt to reconcile economic development with environmental conservation. The Court addressed the controversial issue of limestone mining in the forest areas of Meghalaya by Lafarge Umiam Mining Pvt. Ltd, while dealing with balancing development needs and environmental

²⁵ Central Empowered Committee, Constituted by the Hon'ble Supreme Court of India. Available at: <<https://cecindia.nic.in/power-and-function>>.

²⁶ Compensatory Afforestation Fund Management and Planning Authority, Ministry of Environment, Forest and Climate Change, Government of India. Available at: <https://forestsclearance.nic.in/writereaddata/FAC_Agenda/AboutCAMPA.pdf>.

²⁷ Sri Ram Saha v. State of West Bengal, (1999) 1 Cal LT 399 (HC).

²⁸ T.N. Godavarman Thirumulpad v. Union of India (2002) 10 SCC 606.

²⁹ Lafarge Umiam Mining Pvt. Ltd. T.N. Godavarman Thirumulpad v. Union Of India & Ors, (2011) 7 S.C.R. 954.

protection. While allowing the continuation of mining operations, the Court laid down stringent guidelines for environmental clearances and emphasised the need for sustainable development. Key mandates:

1. ‘Sustainable development’ was mandated to be a balancing factor between environment conservation and developmental goals.
2. The involvement of local communities in environmental decision-making processes was emphasised, alongwith the need for cumulative impact assessments in projects affecting forest areas.

Orissa Mining Corporation v. Ministry of Environment & Forest (2013)

Also known as the ‘Niyamgiri Judgment,’ this case³⁰ is known as India’s first environmental referendum,³¹ whereby the rights of indigenous communities in decision-making processes regarding the use of forest land for mining were recognised.

The Supreme Court ordered a referendum for obtaining free, prior and informed consent (FPIC) from the indigenous communities before introducing a project on their territories: this was a pivotal shift from the previous requirement of mere consultation or participation in decision-making.

T.N. Godavarman Thirumulpad v. Union of India & Ors (2014)

This case,³² part of the ongoing Godavarman series, dealt with the issue of Ecologically Sensitive Areas (ESAs) and buffer zones around protected forests. The Supreme Court addressed the need for demarcating ESAs around national parks and wildlife sanctuaries to prevent ecological damage from developmental activities. Notably, the Court mandated the creation of buffer zones or Eco-Sensitive Zones (ESZ) around protected areas.

Hanuman Laxman Aroskar v. Union of India (2019)

The Supreme Court emphasised³³ the critical importance of Environmental Impact Assessments (EIAs) in the decision-making process for projects that could affect forest areas and other ecosystems. The SC also highlighted the need for cumulative impact studies, especially in ecologically sensitive areas, and also the role of the National Green Tribunal in reviewing environmental clearances.

³⁰ Orissa Mining Corporation v. Ministry of Environment & Forest & Others, Writ Petition (Civil) No. 180 of 2011.

³¹ Kriti Sharma (2023), ‘Niyamgiri: Ten Years Since India’s First Environmental Referendum,’ Down to Earth. Available at: <<https://www.downtoearth.org.in/governance/niyamgiri-10-years-since-india-s-first-environmental-referendum-88850>>.

³² T.N. Godavarman Thirumulpad vs Union Of India & Ors, AIR 2014 SC (CIVIL) 2258.

³³ Hanuman Laxman Aroskar v. Union Of India, AIR Online 2019 SC 318.

E. Contemporary Developments & Challenges

Despite regular judicial interventions, the evolution of Indian forest law and policy continues to be a piecemeal process, constantly shaped by both persistent and emergent challenges, as well as by bureaucratic manoeuvring: which often dictates the directions taken by forest governance frameworks. Recent developments, driven as much by external crises as by internal inefficiencies, underscore the need for a critical reassessment of the current approach.

Covid-19

1. The onset of the COVID-19 pandemic brought to the fore a set of issues previously unaccounted for in governance practices. The pandemic highlighted not just the vulnerability of these communities but also the inadequacy of the state's responses when faced with complex socio-environmental crises.
2. In an attempt to cope, the Ministry of Environment, Forest and Climate Change hastily issued guidelines intended for forest and wildlife staff, aimed at adapting to the crisis. Yet, these measures have exacerbated the hardships of tribal communities (as well as ground staff), who, reliant on forests for their day-to-day subsistence, have found themselves further marginalised by bureaucratic directives that seem oblivious to their realities.³⁴

Global Warming

1. Global warming (perhaps disingenuously dubbed 'climate change'), a constant and growing threat, has firmly entrenched itself as the foremost challenge in forest governance in India.
2. The country's updated Nationally Determined Contributions (NDC) under the United Nations Framework Convention on Climate Change (UNFCCC), issued in 2022³⁵, ambitiously seeks to establish an additional carbon sink of 2.5 to 3 billion tonnes of CO₂ equivalent, through increased forest and tree cover by 2030.
3. However, such ambitious targets, when juxtaposed against the ground realities of poor forest governance and garbage management practices, raise significant doubts about the country's ability to deliver on these promises. The rhetoric of sustainability often collides with the reality of unchecked exploitation, where forests are more often seen as commodities rather than as foundational ecosystems.

Technological Advancements

1. Technological advancements, often presented as a panacea for inefficiencies in forest management, have certainly brought some changes. Platforms such as the e-Green Watch portal³⁶, which allows real-time monitoring of afforestation efforts, and the use of satellite imagery for forest cover assessments, promise improved oversight.
2. However, while such technologies can help to manage certain issues, they cannot serve as substitutes for the kind of systematic reform required to address the deeper issues plaguing forest governance, particularly when the bureaucratic machinery remains sluggish and corrupt, and the fundamental issues are never addressed.

³⁴ Purva Variyar (2020), Wildlife Conservation Trust, 'Protecting India's Forests in the Time of COVID'. Available at: <<https://www.wildlifeconservationtrust.org/protecting-indias-forests-in-the-time-of-covid/>>.

³⁵ Press Information Bureau of India (2022), 'India's Updated Nationally Determined Contribution'. Available at: <<https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1847812>>.

³⁶ e-Green Watch. Available at: <<https://egreenwatch.nic.in/>>.

Legislations

1. The Compensatory Afforestation Fund Act, 2016³⁷, along with its subsequent Rules in 2018³⁸, has emerged as a key legislative attempt to ensure that any loss of forest cover is offset by afforestation efforts elsewhere.
2. However, this is yet another example of a policy with its theoretical merits being undermined by weak implementation. Conservationists and policymakers remain divided over whether these compensatory measures are anything more than symbolic gestures that perhaps allow for unchecked deforestation under the guise of ‘compensation.’
3. Further, the Forest Rights Act (FRA) of 2006³⁹ remains the primary legislative tool designed to empower forest-dwelling communities, but its implementation has been far from smooth. Recent data highlights the persistent failure to settle claims under the FRA, and the ongoing bureaucratic resistance to fully recognising the rights of these communities continues to hamper the Act’s stated objectives.
4. This is compounded by the state’s inability to strike a genuine balance between the needs of conservation and the legitimate rights of indigenous peoples, who are often perceived as obstacles rather than as stakeholders in the conservation process.

Global Outlook

1. India’s participation in global forest conservation initiatives like the Bonn Challenge⁴⁰ and the UN Decade on Ecosystem Restoration⁴¹ (2021-2030) signals a strong commitment to international cooperation, but these initiatives too, at times, appear to be more about posturing than action. When viewed in light of domestic forest policies that are largely toothless, such global pledges ring hollow.
2. However, India’s forest governance challenges are not unique; many other countries from the Global South grapple with similar issues of balancing conservation, livelihood needs, and economic development. Examining forest governance models in countries like Nepal (which has a long history of community forestry), or Costa Rica (which has pioneered the Payments for Environmental Services Programme⁴²), can offer valuable lessons for India.
3. Similarly, analysing the joint forestry management frameworks in neighbouring Bangladesh, or the challenges of combating deforestation in countries like Indonesia and Brazil, can provide ready insights into alternative approaches and potential pitfalls. While each country’s eco-developmental context is of course distinct, comparative analyses can generate ideas for innovation and adaptation in India’s own forest governance framework.

³⁷ Compensatory Afforestation Fund Act, 2016 (India). Available at: <https://www.indiacode.nic.in/bitstream/123456789/2151/1/A2016-38.pdf>.

³⁸ Compensatory Afforestation Fund Rules, 2018 (India). Available at: <https://thc.nic.in/Central%20Governmental%20Rules/Compensatory%20Afforestation%20Fund%20Rules,%202018.pdf>.

³⁹ The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (India). Available at: <https://www.indiacode.nic.in/bitstream/123456789/8311/1/a2007-02.pdf>.

⁴⁰ India, Bonn Challenge (2015). Available at: <https://www.bonnchallenge.org/pledges/india>.

⁴¹ Atul Bagai, Reuben Gergan (2021), ‘India Holds Great Promise in this Decade on Ecosystem Restoration’. Available at: <https://india.mongabay.com/2021/06/commentary-india-holds-great-promise-in-this-decade-on-ecosystem-restoration/>.

⁴² United Nations Climate Change, Payments for Environmental Services Program | Costa Rica. Available at: <https://unfccc.int/climate-action/momentum-for-change/financing-for-climate-friendly-investment/payments-for-environmental-services-program>.

F. Conclusion

The trajectory of Indian forest law, from its colonial-era roots to its modern-day complexities, reveals a gradual shift towards more sustainable Governance practices. However, as with most aspects of post-colonial governance in India, the transformation is plagued with contradictions, half-hearted measures, and perhaps a lack of committed will to implement meaningful reform. Despite the judiciary's regular interventions, the persistent tension between conservation and development continues to be a defining feature of Indian forest governance, a tension that cannot be resolved by mere posturing or superficial initiatives.

Recommendations

1. It is imperative that an integrated approach to land-use planning be adopted: one that gives **equal weight to ecological sustainability and economic needs**. Comprehensive land-use policies must account for the ecosystem services that forests provide, rather than viewing forests solely through the prism of resource extraction or developmental expedience.
2. The **empowerment of forest-dwelling communities**, promised by the Forest Rights Act of 2006, must be more than a theoretical ideal. Strengthening their participation in decision-making processes is not only a legal requirement but a practical necessity for sustainable forest governance. Equitable benefit-sharing mechanisms, particularly in terms of the resources forests provide, could help foster a more just approach to conservation. Local forest management committees, with real decision-making power and autonomy, are needed if the country is to move beyond the current model of top-down bureaucratic control, which regularly alienates the very people it is supposed to serve.
3. Further, **technology offers intriguing possibilities for enhancing forest governance**, but it is critical to understand that technological fixes are only as good as the governance frameworks they operate within. AI-driven models for predicting forest health and real-time monitoring of deforestation are tools that can significantly enhance governance: but only if there is sufficient bureaucratic will to use them effectively. Training forest department personnel and investing in these technologies should be a priority, but not at the expense of addressing the larger structural problems that continue to plague forest management efforts.
4. Climate change poses an existential threat, and yet the national response has been tepid at best. **Climate resilience strategies** must be integrated into forest management plans. This can include: diversifying forest species to build resilience, creating wildlife corridors to allow for species migration, and embracing adaptive management techniques that can respond to the rapidly changing environmental conditions.
5. The complexities of forest governance demand **better coordination between government departments**. Establishing formal mechanisms for collaboration between forestry, agriculture, tribal affairs, and other relevant departments can streamline policy implementation. The private sector too has a role to play, though its involvement must be carefully regulated to ensure that profit motives do not override the broader goals of conservation. Public-private partnerships (if properly designed) can unlock new resources for conservation efforts, but this will require strict oversight and clear guidelines to prevent abuse.

The future of India's forests depends not just on laws and policies but on a fundamental shift in societal attitudes towards conservation. Investing in environmental education and public awareness campaigns will be crucial if the country is to foster a culture of conservation that extends beyond protected areas. By embracing innovation and fostering genuine collaboration across all sectors of society and governance, the country can work stridently towards a future where its forests are not just preserved, but allowed to thrive.

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