



A Critical Evaluation of the Laws related to Sustainable Forest Management in India

KISHAN P. KOTAK

Research Scholar (Law),
Shri Govind Guru University, Vinzol, Godhra.

DR. AMIT MEHTA

Research Supervisor,
Shri Govind Guru University, Vinzol, Godhra.

Abstract:

Forests and their ecosystems are currently at the top of policy agenda and public attention in the context of the protection of biodiversity, climate change impacts, their adaptation and mitigation. Sustainable forest management is required to balance the environmental, social, economic pillars of sustainability. Both the central and state governments have the responsibility of managing forest lands sustainably. The central legislations provide an overarching framework for the state government so that they can make specific rules and regulations concerning flora and fauna of the states. The judiciary has undoubtedly performed the role of law maker and established various committees and empowered them to enforce the provisions of forest laws. The thrust for economic development and the need for protection of forest resources has put a challenge for the developing country like India.

Keywords: *Forest, environment, forest cover, protection, laws, judiciary, sustainable development*

1. Introduction

After the Earth Summit at Rio de Janeiro in 1992, where international forest principles were formulated for the first time by world leaders and the first global policy on sustainable forest management was adopted, the notion of sustainable forest management rapidly gained interest. From the economic advantages point of view, forests remain one of the most important sources of revenue for humans. Forests provide valuable timber for domestic and commercial use. Industries like paper, matt making, plywood, sports goods, lakh and furniture are solely based on raw materials derived from forest. Forests supply many other useful produces like gum and resins, tannin material, medicines, herbs, honey, spices, etc. Millions of people earn their livelihood and get employment in forest-based occupations, lumbering, sawing, furniture making, forest produce collecting, etc.

Forests have endured the most of unsustainable development practices. Pressure on forests and forest lands have grown manifold due to demands of industry and agriculture alike. 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 vegetation cover over 19% of the total land area as against the accepted ideal¹ of 33% in India and over 40% internationally. Thus, vegetation cover is much less than required. With its population growing, demanding more resources, and consuming more, Indian forests face degradation.

India is at the forefront of the global fight against climate change and as part of its various international commitments against climate change, forests have a crucial role to play. As a result, India has been helplessly witnessing experienced a fluctuating rate of deforestation over the past three decades. From 1988 onwards the Indian government have started implementing major restrictions on legal domestic harvesting. Nevertheless, deforestation has kept on rising in the country at an alarming rate. The vast population of people living in forest areas, including tribals, rely heavily on forests for fuel, fodder, grazing, wood, and non-timber forest products. Furthermore, domestic illegal logging and smuggling of

high-value timber is a major problem in many parts of the country (including in protected areas) – has also raised serious concerns. No wonder we are now facing persistent hotter and drier weather due to climate change. Other human factors such as land conversion for agriculture and poor forest management are the main drivers behind the process of degradation of forest and unfortunate events like landslides, earthquakes and increase of forest fire. Thus, due to the impact of biotic pressure on forests, the forest areas spread across the country have been depleted and degraded which is a grave concern. This has led the law makers and the public policy decision makers to adapt the techniques, technologies and legal decisions to optimize the social and environmental contributions of forest management and equitably reducing its negative impacts.

2. Objectives of the Study

The main research objective of this study is to highlight the facts and situations prevailing in the legal provisions for the sustainable forest management in terms of protection of forest cover and attempts made, being made and should be made to protect the forest and green cover. Under the prevailing situation and circumstances, there is a need to identify a range of issues that should be considered in assessing the adequacy of forest laws and find out amicable options for addressing those issues in ways that may improve the effectiveness of law as a foundation for sustainable forest management.

The objective is to study how forest governance in terms of enacting various acts and rules served to the purpose of preserving nature and how far the judiciary has kept itself vigilant to ensure that the legislations framed for the protection and preserving the forest cover are effectively implemented and what further worthwhile provision could improve the situation.

3. Research Methodology

Since this study is based on the secondary data and is of analytical nature, it is more of a principle based or doctrinal based study. The methodology adapted for conducting the proposed research is doctrinal research method. It involves activities such as arranging, ordering and analysis of the legal structure, legal framework and case laws to search out the new thing by extensive surveying of legal literature but without any field work. Secondary sources namely books, journals, research articles, unpublished theses, newspapers and e- sources have been referred to for the purpose of writing this paper. It also includes various legislations, judgements passed by the Supreme Court, articles from various national and international journals, law journals, reports of committees, surveys and reports etc.

4. Research Problem

The central research problem is to critically analyse to the extent to which the Indian laws have effectively addressed to the need of protecting the forest and increasing the forest cover in terms of sustainable forest management and the efforts undertaken by the government in terms of providing progressive legislations from time to time keeping in tune with changing circumstances and situations. Sustainable forest management encompasses three components of sustainability, viz. ecological, economic and socio-cultural well-being. It has been defined by the International Tropical Timber Organization (ITTO) as ‘the process of managing permanent forest land to achieve one or more clearly specified objectives of forest management with regard to the production of a continuous flow of desirable forest products and services without undue reduction of its inherent values and future productivity and without undue undesirable effects on the physical and social environment’.¹ The question that needs to be answered is whether we are degrading forests to a raw material store? This has led us to discuss forest vulnerability and the need of adaptation to climate change. The efforts from judiciary have also made an impressive impact in terms of landmark judgements by the Supreme Court for preserving the green cover of the nation even at the cost of inviting the criticism of overreaching in few cases.

¹ ITTO, Criteria and indicators for sustainable forest management of natural tropical forests. ITTO Policy Development Series No. 7, International Tropical Timber Organization, Japan, 1998.

We are in a 'Climate Emergency' that requires urgent action because peak temperatures are irreversible for the next 2000 years and thus, zero net emissions (carbon neutral) must be an intermediate goal to decreasing atmospheric CO₂ or natural systems will become an irreversible source of additional emissions. Moreover, biodiversity loss of up to 1 million species will prevent achieving climate goals. It is necessary to reduce net emissions annually by 7.6% below 2010 levels beginning in 2020 by reducing emissions and increasing removal of atmospheric carbon dioxide by Nature Based Solutions.² Considering the global trend of alarming deforestation, it is very important to study various forest management strategies to understand their effectiveness and limitations. It is important to conserve the forests, but the economic sustainability of the people directly linked with the forests cannot be ignored.

5. Hypothesis

Primary Hypothesis (H1): The dogmatic objectives of the laws related to Forest Cover and Forest Laws in India are to protect and enhance the use of forest resources and to ensure improvement in the socioeconomic conditions of rural inhabitants, as well as to implement progressive innovations in the approaches to forest resource management.

Secondary Hypothesis (H2): A history of forest degradation and the emergence of people's action groups have shown that the scientific management of forests cannot always be carried out in isolation from the aspirations and cooperation of people who depend on the forests for their livelihood. This once again leads us back and forth to the concept of sustainable forest management.

6. Limitation of the Study

This study has included into its scope only the prevailing forest legislations in India with main focus on the following.

- The Indian Forest Act, 1927 and its subsequent amendments
- The Forest (Conservation) Act, 1980 and The Forest (Conservation) Rules, 1981 and its subsequent amendments

Since the pivotal objective of the study is to analyse and understand the to which extent has these legislations has made impact in the protection and conservation of the forest cover in India, the attempt is to come up with conclusions and further suggestions which can pave a path for not only protecting and conserving forest cover but to resurrect the same. There have not been any field visits undertaken to gauge the problems of tribals and communities which can be considered as forest dwellers. Since this study has a limited scope, the entire data has been sourced from secondary sources such as bare acts, rules, government websites, policy documents, reported cases, current events, etc.

7. Findings: Critical Analysis of the Statutory Framework

The Central Forestry Board was set-up in the year 1950 and this was followed by a National Policy on Forests in the year 1952. It was in this 1952 National Forest Policy that the target of 33% of the total land to be covered by forests, was established. It recognised the need of evolution of the system of complementary and balanced land use. 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, riverbanks, 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.³

The Indian Forest Act, 1957 is the main legislation governing the management of forest and its resources in India. It is the primary guiding law relating to forestry. The main objective of the Act includes

² Information About Forests for Biodiversity and Climate Change, William R. Moomaw, Tufts University, Board Chair Woods Hole Research Centre, February 5, 2020 (*site visited on 10th September 2022*)

³ National Forest Policy, 1952

preservation and consolidation of forested areas, identifying, protecting, and conserving forest areas with wildlife and regulating and streamlining the use and transport of forest resources. The amended Forest Act, 1992 had incorporated few provisions in which certain infrastructure activities are allowed in the forest area without cutting trees with prior approval of the Central government.

The Forest Conservation Act, 1980 was enacted with an altogether new approach. Deforestation was accepted as a matter of grave concern. Now, the emphasis was laid on checking the conversion of forest lands for non-forest purposes. Stringent rules and regulations were put in the place to govern forest lands for non-forest purposes. Under this Act, the state government were prevented from authorizing such conversions without the approval and permission of the central government. The statement and objects and reasons of the Act, makes its intention clear, “an act to provide for the conservation of forest and for matter connected therewith or ancillary or incidental thereto.”⁴ The thematic aspect of the provisions of the Act, too, have been framed on similar lines.

Regular guidelines, from time to time, are being issued under this 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.⁵

The concept of ‘Afforestation’ came into the scope of the thought process of the law makers as one of the most effective ways of tackling global warming. The importance of afforestation is that it not only helps in creating the much-needed alternative sources of natural resources but also helps in enriching the existing natural rainforests and wetland areas in addition to aiding the environmental issues. In order to ensure the effective implementation of the afforestation in the country, an authority named as “Compensatory Afforestation Management and Planning Authority (CAMPA)” has been constituted at the national as well as state 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.

Larger parts 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.⁶ 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.

This led to the establishment of the National Forest Policy of 1988.⁷ The basic objective that govern the National Forest Policy, 1988⁸ includes maintenance of environmental stability through preservation and, where necessary, restoration of the ecological balance that has been adversely disturbed by serious depletion of the forests of the country. Policies like Joint Forest Management where the forest

⁴ Forest Act, 1980

⁵ <https://thelawbrigade.com/environmental-law/forest-laws-in-india-policy-and-assessment>

⁶ http://shodhganga.inflibnet.ac.in/bitstream/10603/21724/9/09_chapter.pdf (site visited on 13th September 2022)

⁷ <https://thelawbrigade.com/environmental-law/forest-laws-in-india-policy-and-assessment>

⁸ National Forest Policy, 1988

authorities/departments and the villages look after and protect certain forest areas for meeting the basic requirements and needs of the tribal and rural population, increasing the productivity of the forest as well as improving the efficiency of utilizing the forest products and thereby reducing the pressure on existing forests.

With changing situations and circumstances, both the front of the environmental concerns and need of protecting the rights of forest dwellers, there rose a need of revamping the National Forest Policy. Accordingly, new National Forest Policy, 2018 came in force. The new 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. Since inception of the Forest Policy 1988 the forest and tree cover in the country has increased from 19.7 % of geographical area (State Forest Report, 1987) to 23.4 % of the geographical area (State Forest Report, 2005) and is indicative of the facts that the forest policy prescriptions are helping gradually towards achieving environmental stability and maintenance of the ecological balance.⁹

Finally, in 2018, the central government officially released the draft of the NFP. The said draft was then revised in 2019 as well but since then there has been no news about the final version of the NFP. In the given situation and circumstances, a new forest policy is a significant and much-required document because it provides an overarching framework and direction for the management and regulation of forests in the country. It is expected to take into account the changes that have come into laws that deal with forests, climate change, pollution and other pressing requirements of the present times.

The importance of mapping the forest cover in the country was well realised and as a result an organisation, Forest Survey of India, was established under the Ministry of Environment & Forests, Government of India with its main function to conduct survey and assessment of forest resources in the country.¹⁰

Various Forest authorities for forest and environment protection have been constituted keeping in view the above laws and legislations. The Ministry of Environment, Forest and Climate Change (MOEF) is a nodal agency in the administrative structure of the Central Government for the planning, promotion, co-ordination and overseeing the implementation of India's environmental and forestry policies and programmes.

The National Green Tribunal (NGT) is one of the most important initiatives taken by the Central Government of India. It was established in 2010 under the NGT Act of 2010 as a specialized body for handling any environmental disputes that involve multi-disciplinary issues. The National Commission on Agriculture (NCA) also signifies the importance of bioresources. In rural areas, people depend on a wide range of bioresources for their nutrition and livelihood security. The commission recommended for preserving traditional rights of access to biodiversity.

Academic institutions like Indira Gandhi National Forest Academy and other NGOs impart contribution in enlightening the masses and creating awareness about the protection and conservation of forest over in India.

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