

Government's Measures for Conservation of Endangered Forest Areas



Management

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ABSTRACT

Forest is the natural wealth. No one can deny its need to be preserved. Destroying forest is easy; but growing it takes decades. Preserving forests is therefore of utmost importance. Environmental law covers preservation of forests as its important wing. Until 1976, the subject of forest belonged in the State List of the Constitution and state governments regulated forests in accordance with the Indian Forest Act of 1927. The Forty-Second Amendment Act of 1976 transferred forest to the Concurrent List, thereby empowering the central government to play a more direct role in the management of forest and the regulation of activities in forest lands.

Nowadays the area covered by forest has reduced tremendously. To conserve forest areas, the government launched joint forest management and social forestry schemes, with some success. Judiciary had to deal with cases involving conflict between need to preserve forests and the need for developmental activities. In most of the cases, the Supreme Court and the High Court emphasized the need to preserve forests, as against the need of industry.

The present paper focuses on the depletion of forest areas, the various measures taken up by the government and its consequences.

A. Introduction

In the Constitution of India it is clearly mentioned that it is the duty of the state to protect and improve the environment and to safeguard the forest and wildlife of the country. It imposes a duty on every citizen 'to protect and improve the natural environment including forests, lakes, rivers, and wildlife'. The Department of Environment was established in India in 1980 to ensure a healthy environment for the country. Later this became the Ministry of Environment and Forests in 1985.

Safeguarding the forest and wild life of the country is the duty entrusted to the State as per Article 48A of the Directive Principles of the State Policy in the Constitution of India. It is the fundamental duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wild life as envisaged by Article 51 A of the Constitution.

B. Depletion of Forest

Over the years, the area cover under forest has decreased steadily, as forests have been cleared for agriculture, industry, housing, and other development activities like the construction of roads, railways, and hydroelectric plants. Today, the method of cultivation causes extensive damage to the area. Due to the increase in population, people are compelled to cultivate on the same plot of land more frequently as there is very little forest area available. Forests are also being converted to permanent settlements. Thus, forests cannot regenerate, and, in some cases, forest areas have become wasteland within a few years due to frequent cultivation.

Animals usually graze in forests. But if their number is large, they hamper regeneration when they trample on the young shoots and seedlings or eat them. This makes the soil prone to erosion. Apart from forest loss, one also has to contend with forest degradation. Communities living in and around forests remove fuel wood from forests. As long as the population was low, the forest could meet the demand and yet remain healthy. But the increasing population has severely depleted the forest.

British India

- With the colonization of India, western culture and commercial activities entered. Industrialization began to spread.
- It is widely accepted that with the advent of British rule the process of deforestation of this country began.
- Meeting the industrial needs of their home country being the primary aim of the colonizers, the natural resources of this country, including the forest, came to be endangered.

After independence India lost forest area in the following manner:
4696 Million hectares forest land to non-forestry purposes

- 0.07 Million hectares to illegal encroachment
- 4.37 Million hectares to cultivation
- 0.518 Million hectares to river valley projects
- 0.141 Million hectares to industries and townships
- 0.061 Million hectares to transmission lines and roads

C. Conservation measures and its consequences

To conserve forest areas, the government launched joint forest management and social forestry schemes with some success. But other conservation measures have to be taken to save the forests from further depletion and degeneration. Government and communities should take steps to plant trees on a large scale. The community should be consulted and trees that will meet their requirements should be planted. People living in the rural and forestry areas should be sensitized to the damage done to their surroundings by the felling of trees. They should be encouraged to cut branches, twigs and leaves of the trees for their daily requirements. Horticulture as an alternative source of income should be encouraged. All these would stop the depletion of forest cover.

British India

- Indian Forest Act of 1878 was the legislation, which attempted to control forests by formation of reserved forests.
- In 1894 the British Government in India reviewed its forest policy.

Independent India

- After independence, the Government of India introduced the National Forest Policy of 1952. More or less the British Policy of the commercial use of the forest was continued under this Policy.
- But the National Forest Policy of 1988 revised the National Forest Policy of 1952.
- The 1988 Policy presented in the Parliament recognized the fact that over the years the forest in the country suffered serious depletion.
- This was attributed to the relentless pressure arising from ever-increasing demand for fuel wood, fodder and timber, and the inadequacy of protective measures.

The Legislative measures which existed during British regime were:

- Indian Forest Act, 1878;
- Madras Forest Act, 1882;
- Indian Forest Act, 1927.

The Government of India has introduced various types of legislation in response to the growing destruction of wild-life and forests. These are:

- The Indian Forest Act, 1927 was largely based on previous

- Indian Forest Acts implemented under the British.
- The first and most famous was the Indian Forest Act of 1878.
- Both the 1878 act and the 1927 sought to consolidate and reserve the areas having forest cover, or significant wildlife, to regulate movement and transit of forest produce, and duty leviable on timber and other forest produce.
- It also defines the procedure to be followed for declaring an area to be a Reserved Forest, a Protected Forest or a Village Forest.
- It defines what is a forest offence, what are the acts prohibited inside a Reserved Forest, and penalties leviable on violation of the provisions of the Act.

Reserved Forest

- Reserved Forest is an area mass of land duly notified under the provisions of India Forest Act or the State Forest Acts having full degree of protection.
- In Reserved Forests all activities are prohibited unless permitted. Reserved Forest is notified under section 20 of the Indian Forest Act, 1927 [Act 16 of 1927] or under the reservation provisions of the Forest acts of the State Governments of the Indian Union.
- The manner in which a Reserved Forest, shortly written as RF, has to be constituted is described in section 3 to 20 of the Act.
- 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 notification also appoints an officer of the State Government, normally the Deputy Commissioner of the concerned district, as Forest Settlement Officer.
- 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.
- 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.

Protected Forest

- Protected Forest an area or mass of land notified under the provisions of India Forest Act or the State Forest Acts having limited degree of protection.
- In Protected Forests all activities are permitted unless prohibited.
- Protected Forest 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 of the Indian Forest Act, 1927.
- It does not require the long and tedious process of settlement, as in case of declaration of a reserved forest.
- Indian forest act was established in 1972 for the protection of all the flora and fauna.

Village Forest

- Village Forest is constituted under section 28 of the Indian Forest Act, 1927.
- The Government may assign to any village community the rights over a land which may not 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 are so notified are marked on the settlement revenue maps of the villages.

1. The Wildlife (Protection) Act, 1972 (Last amended in 2006)

The Wildlife (Protection) Act (WLPA), 1972 is an important statute that provides a powerful legal framework for:

- Prohibition of hunting
- Protection and management of wildlife habitats
- Establishment of protected areas
- Regulation and control of trade in parts and products derived from wildlife

- Management of zoos.

The WLPA provides for several categories of Protected Areas/Reserves:

- National Parks
- Wildlife Sanctuaries
- Tiger Reserves
- Conservation Reserves
- Community Reserves

The 2006 amendment introduced a new chapter (IV B) for establishment of the National Tiger Conservation Authority and notification of Tiger Reserves (before this amendment, Tiger Reserves were not defined under the law, but were merely administrative designations to enable funding under Project Tiger).

2. The Indian Forest Act (1927) and Forest Acts of State Governments

- The main objective of the Indian Forest Act (1927) was to secure exclusive state control over forests to meet the demand for timber.
- The Act defined state ownership, regulated its use, and appropriated the power to substitute or extinguish customary rights. The Act facilitates three categories of forests, namely
 - Reserved forests
 - Village forests
 - Protected forests

3. The Forest Conservation Act (1980)

- In order to check rapid deforestation due to forestlands being released by state governments for agriculture, industry and other development projects (allowed under the Indian Forest Act) the federal government enacted the Forest Conservation Act in 1980 with an amendment in 1988.
- The Act made the prior approval of the federal government necessary for de-reservation of reserved forests, logging and for use of forestland for non-forest purposes.
- The Supreme Court of India has currently imposed a complete ban on the release of forestland for non-forestry activities without the prior approval of the federal government.

4. The Environment (Protection) Act (1986)

- The Environment Protection Act is an important legislation that provides for coordination of activities of the various regulatory agencies, creation of authorities with adequate powers for environmental protection, regulation of the discharge of environmental pollutants, handling of hazardous substances, etc.
- The Act provided an opportunity to extend legal protection to non-forest habitats ('Ecologically Sensitive Areas') such as grasslands, wetlands and coastal zones.

5. The Biological Diversity Act (2002)

- India is a party to the United Nations Convention on Biological Diversity.
- The provisions of the Biological Diversity Act are in addition to and not in derogation of the provisions in any other law relating to forests or wildlife.

6. National Wildlife Action Plan (2002-2016)

- The Plan replaces the earlier Plan adopted in 1983
- It was introduced in response to the need for a change in priorities given the increased commercial use of natural resources, continued growth of human and livestock populations, and changes in consumption patterns.
- The Plan most closely represents an actual policy on protection of wildlife.
- It focuses on strengthening and enhancing the protected area network, on the conservation of endangered wildlife and their habitats, on controlling trade in wildlife products and on research, education, and training.

7. National Forest Policy (1998)

- The National Forest Policy, 1988, (NFP) is primarily concerned with the sustainable use and conservation of forests, and further strengthens the Forest Conservation Act (1980).
- It marked a significant departure from earlier forest policies, which gave primacy to meeting government interests and industrial requirements for forest products at the ex-

- pense of local subsistence requirements.
- The NFP prioritizes the maintenance of ecological balance through the conservation of biological diversity, soil and water management, increase of tree cover, efficient use of forest produce, substitution of wood, and ensuring peoples' involvement in achieving these objectives.
 - The NFP legitimizes the customary rights and concessions of communities living in and around forests, stating that the domestic requirements of the rural poor should take precedence over industrial and commercial demands for forest products.

Its consequences

None will acquire any rights in or over reserve forest. No one can make fresh clearings in that forest. Setting fire to the reserve forest is prohibited. None can trespass even for pasture of cattle. Felling or cutting trees in the forest area is prohibited. Quarrying stone etc is barred. Removing any forest-produce is not permitted. Hunting and catching elephants are barred. All prohibited acts are made punishable, for the purpose of effective

control. It may be noted that the formation of reserve forest and its safety are well taken care by the law, provided the authorities effectively enforce it.

D. Conclusion

It is of no doubt that there are quite a number of legislation in India regarding forests, its conservation and preservation. It is also worth mentioning that the judiciary has also ruled for the conservation and its need. But still in India, there are lots of deforestation activities going on as well as cutting down of trees; and until and unless the government wakes up and takes up some serious steps for the proper enforcement of the laws, rules and regulations; our dream for a greener tomorrow will remain unfulfilled. Preserving forests is part and parcel of environmental protection, which is the need of the present day industrialized world. The legislative and judicial response in this field needs examination to find out the effectiveness of its roles. Such examination will enable to find out where the fault lies and to suggest remedies.

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