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Dr. Nutan Srivastava
Associate Professor,
Department of Botany,
R.H.G.P.G. College, Kashipur,
Uttarakhand, India

A study of forest conservation protection laws in India

Dr. Nutan Srivastava

Abstract

The purpose of this Research paper is to provide a systematic and practical reference to the fundamental characteristics of modern forestry law. Forest laws should be evaluated for their appropriateness on a variety of topics, and this report offers suggestions on how to do so in ways that will enhance the law's usefulness as a foundation for long-term forest management. Finding forestry law within a larger legal context is the first part of this study project, which examines its intricate relationships with other local and general laws. Because the Relationship between forest access and usage and land tenure is so critical, land issues are given special attention. Enforceability or the legal treatment of basic forest management issues such classification of forests, formulation of policies, grant of concessions, issuance of permits and private forest management. The third segment focuses on the role of national and local agencies/departments in forest resource management. Through community-based systems such as forest planning, usage, and management, forestry duties and powers are increasingly being decentralised. There are some thoughts on how forest laws can be more effective if they are enforced in accordance with their stated principles.

Keywords: Policies of forest laws, forest tenure, forest administration, public forestry, private forestry, forest laws and trade, enforcement measures

Introduction

Nature's most abundant resource, forests, are also a beautiful manifestation of the natural world. Additionally, they are considered to be protectors and guardians of the animals in the country. Because of its botanical and recreational value, forests are also a major tourist attraction in the north-eastern part of India as well as other countries. When it comes to soil fertility, preventing soil erosion, and promoting perennial stream flow in rain-fed rivers, forests are always beneficial. In addition to protecting the tribal population, they provide sanctuary for wild wildlife and conserve gene pools. As a result, forests contribute to the preservation of ecological equilibrium. Additionally, forests contribute to the state's economy, provide raw materials for industry, and serve as a source of fuel and food. Conflicting perspectives are inevitable when it comes to forest management. Ecological concerns would arise if claims of development were made. At an unprecedented rate, the world's forests have been decimated over the past century. It has been reported that India has more than 19 percent of its land covered by vegetation, compared to the acknowledged ideal of 33 percent in India and more over 40 percent worldwide. As a result, the amount of vegetation cover is far lower than necessary. For example, Bengal tigers, elephants, and a wide variety of tropical plants are all found in the subcontinent's woods. Natural resources like lumber and minerals can also be found in the forests. As India's population continues to grow, the country's forests are in risk of depletion due to increased demand for resources and consumption. Maintaining a healthy environment is made easier by forests, which keep air and water clean. India's Forest Act of 1927 and state forest laws place restrictions on the use of forests. Forests are classified into reserved, protected, and village forests by the government. At any given time, there is a distinct set of goals and dreams that are expressed in the legislation that is put into place. For the first time in the country's history, the Indian Forest Act, 1927 provides a comprehensive law on forest management. With roots in pre-colonial British colonialism and feudal society, rather than environmental and ecological concerns, the Forest Act is an example of British imperialism at its worst.

Corresponding Author:
Dr. Nutan Srivastava
Associate Professor,
Department of Botany,
R.H.G.P.G. College, Kashipur,
Uttarakhand, India

The primary goal of this strategy was to regulate the trade in forest products and raise income for the government by levying taxes on timber.

Forests were included to the constitution's list of states after India got independence. The Indian Forest Act of 1927, as implemented by state laws, was still being enforced by state forest administrations. The Indian Forest Act grants the state control over both public and private lands, making it easier to benefit from the logging industry. Reserve forests, community forests, and protected forests are all examples of public forests, which are owned by the state.

Forest legislations

In South India, the first attempt to control the Indian forests was made. A commission was formed in 1880 to investigate the availability of teak in the Malabar jungles. The commission's findings led to a ban on the felling of teak trees less than twenty-one inches in girth. In 1805, a Forest Committee was formed to assess the forest's capacity. Over-exploitation has taken place in the most accessible forests. For this reason a declaration of 'royalty rights' was issued, preventing the destruction of teak trees in the south. It wasn't long before Cleghorn was brought in to help Brandis as Inspector General of Forests. They were instrumental in the early phases of developing a methodological framework for forest management. As a result, they saw the need for a distinct forest law not only to protect the forests, but also to put them under the proper control of forest officials with sufficient authority. The first Indian Forest Act was signed into law in 1865. On May 1, 1865, it went into effect. Any place covered by trees can be designated as a government forest, and the government can make guidelines for protecting it. The British made their first attempt at enacting forest legislation in India with this bill. But the Indian Forest Act was not extended to the presidency of Madras because of the Board of Revenue's apathy towards the legislation. It was argued that the people had the right to the forests and that the forests could not be constituted as the absolute property of the State⁵. Only Madras and a few other locations were exempt from the revised Indian Forest Act of 1878, passed in 1878. The Indian Forest Act of 1865 was intended to be strengthened by this legislation. Protected Forests, Reservable Forests and Village Forests were all included in this legislation. It limited and regulated the people's rights to forest land and forest products in designated wilderness areas. A new level of government jurisdiction over the forest was granted.

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 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 produce

Forests aren't described under the legislation. Allahabad High Court used the Food and Agriculture Organization (FAO) definition, which states that forest is "all lands bearing vegetative association delimited by trees of any size, exploited or not capable of providing wood and other food products". According to section-4, any private forest may be requisitioned the state for any purpose under the Act, which

shall be considered "required for a public purpose" (land acquisition act, 1894). The private ownership of private forests has been taken over by many states through legislation.

An ivory delivery truck cannot be seized since Section-2 of the Forest Act, 1927 defines "cattle" to encompass practically all animals and "forest production" to include timber and other forest products, but it does not cover "ivory," and hence the vehicle cannot be confiscated. Under this statute, the responsible authority has the jurisdiction to confiscate items before the guilt has been confirmed. Sections 102 and 103 of the Criminal Procedure Code of 1973, which govern search and seizure, have also been made plain to apply to the legislation. Government money was eventually generated through the imposing of duties on timber that were included in the legislation. All of the principal features of the older Act were included in the Indian Forest Act, 1927. The model legislation for the State Forest Acts was based on this Act.

1. Reserved Forests: As defined under Indian Union Forest Acts, section 20 or its reservation provisions, a reserved forest is land that has been legally notified of its existence. Section 4 of the Act gives the State Government the authority to issue a preliminary notification announcing that land described in a schedule containing information on its location, area, and border description has been determined to be designated as a Reserved Forest. Normally the Deputy Commissioner of the affected district is appointed as the Forest Settlement Officer¹¹ in such a notification. It is the Forest Settlement Officer's job to hear the claims and objections of anybody who has or claims to have rights over the property that is being reserved, and he or she may either accept or reject those claims. Land that is claimed as his own can even be purchased by him. The Forest Settlement Officer has the authority to expel land in whole or in part, or come to an agreement with the landowner for the surrender of his rights, or proceed to acquire such land in the manner prescribed by the Land Acquisition Act, 1894, for rights other than those of right of way, right of pasture, right to forest produce, or right to a water course. It is only when all of the rights have been determined in accordance with the Act and appeals have been heard and settled that all of the rights with respect to the piece of land are vested in State Government ownership, whether or not the boundaries have been changed. According to Indian Forest Act of 1927 section 20, the State Government makes a notification declaring that parcel of land a Reserved Forest.

2. Village Forests: Section 28 governs the establishment of village forests. The government has the authority to grant a village the right to use land that is a part of a protected forest. Village Grazing Reserves are commonly established on forested communal properties (VGR). The settlement revenue maps of the communities show the parcels of land that have been notified. There is a big difference between a village forest and a forest village. Despite the fact that they are often used interchangeably, the two phrases have very different meanings. It is an administrative designation, not an official legal one, according to the Indian Forest Act. Due to their lack of jurisdiction, financial gains cannot be passed on to forest communities, which are recognised as a forest department.

3. Protected Forests: As stated in Section 29 of the Act, "protected forest" refers to an area or mass of land that is not a reserved forest and over which the Government holds property rights. It does not necessitate the lengthy and time-consuming procedure of establishing a reserve forest, as in the case of a proclamation. A declaration that infringes on a person or community member's rights may prompt an investigation by the government, but until that investigation is complete, the declaration cannot be used to limit or impact the rights of individuals or communities. There may also be a 30-year suspension of private rights in a protected forest in which the Government issues notifications declaring particular trees to be reserved and suspending private rights if any for a period not exceeding 30 years.

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.

To add insult to injury, it deprived the nomadic and tribal peoples of their long-standing rights to forest resources. Supplying raw materials for forest-based industry was its primary goal. It was widely acknowledged that forests play an important role in maintaining ecological equilibrium and preserving the natural environment. After independence, it is important to point out that a revenue-oriented attitude toward the forest has persisted. This 1927 ordinance, on the other hand, was a complete failure in protecting the forest against unscientific and unplanned use. In addition, the Act of 1927 deprived the tenants of land/tribal of common ownership or occupancy rights or property rights. No rights were granted to the forest dwellers who had lived there for generations. As a result, the government has declared the forests to be its property, and in the event of a dispute, the Forest Settlement Officer has the authority to settle the matter.

Forest conservation act, 1980

The Forest Conservation Act, 1980, was adopted in 1980 by the Parliament in response to the rapid reduction in forest cover in India and to meet the Constitutional requirement under Article 48-A. Ecological imbalance and environmental deterioration¹⁶ are the result of deforestation. The President issued the Forest (Conservation) Ordinance, 1980, on October 25, 1980, in an effort to prevent further deforestation.

To de-reserve a forest and use the land for non-forest purposes, a Central Government approval was required under the Ordinance. In addition, the law established a committee to provide advice to the Central Government on whether or not to provide such consent. The Forest Conservation Ordinance was replaced by the Forest Conservation Act, 1980, which came into effect on October 25, 1980, the date on which the Ordinance was first issued. Deforestation was a primary goal of the Act, as well. The Act's primary goal was to ensure that forests were protected, as well as any related or auxiliary issues.

Before any forest area can be diverted for non-forestry activities, the Central Government must give its approval. This Act, therefore, restricts the use of forest land for non-forestry uses in the benefit of the nation and future

generations. Non-forestry uses must be regulated in order to keep the country's development demands in harmony with the preservation of its natural resources, according to the Act's primary goal. Every now and then, the Act's guidelines are produced as a way to streamline operations, cut down on delays, and make the Act easier to understand and use for everyone. Before 1980, forest areas were being diverted at a pace of roughly 1.43 lakh hectares per year for non-forestry uses. Forest (Conservation) Act of 1980 regulated the rate of forest land diversion to some extent, nevertheless.

Opposition of forest right act, 2006

Right from the start, the Act has been one of the most divisive and contentious pieces of legislation. There has been a lot of debate since the bill was developed and introduced in the parliament. Possibly the first and only time in Indian history that a TV campaign has been used to challenge an Act of Parliament. TV ads against the Act were run by Vanshakti, a Mumbai-based NGO, in October 2003. By "legalising encroachments" under the Act, wildlife conservationists and officials in the Ministry of Environment and Forests described it as the perfect recipe for the destruction of India's forests and animals. As a result of this, the forest department and the wood mafia had been working together to prevent it from being implemented. Because the illegal status of tribals and other forest residents makes the process of eviction and land acquisition for industrial projects easier, corporations are against it. These opponents are motivated by people who regard it as an attempt to give tribals and forest dwellers control of their land through a land distribution programme. Wildlife conservationists, on the other hand, fear that the rule will make it hard to build "inviolable zones," or areas that are completely free of human activity, for the sake of wildlife protection. Concern has been raised about the plight of the tiger in particular. A number of conservationists have also made suggestions for amending the Act.

Supporters of the forest right act, 2006

According to proponents of the bill, preventing the eviction of traditional forest-dependent communities is preferable to stopping large-scale development projects like dams, power plants, and mining operations. According to others, economic activities in forests aren't being brought in by tribal tribes at all, but rather by outside commercial pressures, which are depleting forest resources and undermining native livelihoods. But some of the most outspoken environmentalists are warning that the land mafia will exploit this new rule to trick tribal people who have land rights and force them to give up their property in key forest areas. In addition, they believe that the proposed legal provision allowing for the "selling of forest-based products for their home requirements" would lead to the large-scale commercialization of forest resources. On the other, advocates argue that this Act does not distribute land, and that the Act is more transparent than current law and hence can assist prevent land grabbing. They have claimed that the Act genuinely offers a clear and explicit method for resettling individuals where necessary for wildlife preservation, but it also includes protections to prevent this from being done arbitrarily. Act supporters and some claim that the Act's community conservation elements will really increase forest protection throughout the country. In the face of official opposition, thousands of villages are already

enforcing a legal right to conserve the forest themselves. This is supposed to be the reason.

Role of judiciary on forest legislations

Forests ought to be protected at any costs. Because of the growth of the Indian population, forest cover is steadily shrinking. There should be at least 30% of the country's land under forest cover for ecological stability. Deforestation at a massive scale reduced forest cover to less than 18%. The woods were originally placed on the State List, which meant that only the States could legislate on forests. When the Concurrent List was established in 1976, Parliament was able to pass laws on the subject of forests as well. Although the Governments took tremendous steps to stop deforestation, it remained unchecked. The Supreme Court gave broad directives in 1996 to supervise the application of Forest Laws across the country. Environment and eco-systems have been safeguarded by Indian courts, which have played an important role. India's supreme courts have issued a number of directives and decisions aimed at halting the destruction of the natural environment. It is important to understand how the courts work in this regard by looking at the organisation of the judicial system as well as constitutional and legislative regulations. In India, environmental law is interpreted through a network of doctrines, and environmental law is interpreted through the lens of the Constitution. Non-forest operations and the issuance of leases for non-forest activities had been categorically forbidden by the Court.

Conclusion

The current study focuses on all key forest conservation laws, including those enacted by the British during the time of colonial rule. To maintain human civilization as we know it, forests and the things they produce are absolutely essential. Our society's paradigm shift to one that no longer relies on the forest and its attendant benefits is so massive that we hardly give it a second thought. Thus, we must find ways to manage the forest in a sustainable manner in light of this circumstance. Indian Forest Act, 1927 was the first step. Its main goal was to categorise forests and determine the extent to which the government could intervene in private forest matters and how notifications for reserved forests were made. At times, I felt that the state was interfering in private affairs as well. The introduction of the Forest (Conservation) Act in 1980 marked a dramatic shift in post-independence forest management regimes. Large-scale forest land diversion for non-forest purposes was regulated under the Act. As a result, it did not impose a complete ban on the practise of diversion. The upshot has been the destruction of enormous swaths of forest for agricultural, mining and construction objectives, such as dams. In addition, the ordinance was also accused for restricting the rights of local residents. Government of India launched a new National Forest Strategy in 1988, which emphasised environmental stability and conservation of forests while satisfying the domestic needs of fuel wood, food, and other forest products for the rural and tribal populations, a considerable departure from the 1952 policy. As a concluding note, I believe we must strictly enforce the forest laws and all of the administration's departments must work in a normative approach in order to have a proper outcome from the forest laws.

References

1. Singh, Gurudip. Environmental Law: International and National Perspective, Lawman (India) Private Ltd., New Delhi. 1995.
2. Shastri SC. Environmental Law, (2nd Ed.), Eastern Book Company, Lucknow. 2005.
3. Leelakrishnan P. Environmental Law in India, (2nd Ed.), Lexis Nexis, New Delhi. 2005.
4. Khan IA. Environmental Law, (2nd Ed.), Central Law Agency, Allahabad, 2002
5. Kailash, Thakur, Environmental Protection Law and Policy in India, Deep & Deep Publication, New Delhi, 1997.
6. Indian forest act. 1927.
7. Forest conservation act. 1980.
8. The scheduled tribe and other traditional forest dwellers (recognition of forest rights) act. 2006.
9. Madras forest act. 1882.
10. The Tamil Nadu preservation of private forests act 1949.
11. The Kerala private forests (vesting and assignment) act. (Act 26 of 1971).