

# Indian Legal Regime for the Protection of Trees

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## ABSTRACT

Trees are inalienable from us because they provide life sustaining material. Trees provide us Oxygen, food, shelter, etc. They prevent global warming and attract rain. Trees provide habitat to millions of species. In Hindu religion people believe certain tree to be residence of particular God. Our relation with trees is from the start of life on the earth to the death. We have right to life and personal liberty under article 21 of the constitution of India that covers right to clean environment and it is possible only when cutting of trees is prevented. To protect forest various legislations are enacted by the Parliament of India. Still there is need of stringent laws against the cutting of trees.

*Key words:* Cutting of trees, Conservation of forest

## Introduction

“A nation that destroys its soils destroys itself. Forests are the lungs of our land, purifying the air and giving fresh strength to our people.”

-Franklin D. Roosevelt

Plants, rivers and animals are components of our ecological system. It is undisputed fact that we sustain our life on trees. Rivers have been recognized as legal entities by Indian judiciary in (Mohd Salim v. State of Uttarakhand) (Later on a SLP was filed in the Supreme Court of India. An interim stay was ordered by the Supreme Court and the judgment does not overrule the decision). Right to clean environment has been recognized as basic human right and fundamental right in case of *M. C. Mehta v. Union of India* (Mehta, 1987). Under article 21 the right to life and personal liberty includes a dignified life and dignified life includes word clean environment. Afforestation or non-cutting of trees is logical corollary of right to word clean environment as trees consume carbon word dioxide and release oxygen and prevent soil erosion, floods and expansion of deserts. Vegetables are used as food items which are

rich in nursing content (Mishra, 2020). Trees are required for air purification and to control the daily worsening air pollution, which is one of the major concerns of every country globally.

Trees are to be protected as human beings are protected because human life sustains on trees. Sustainable management of forest resources lies in the concurrent list of the Constitution (Entry 17-A and 17-B). The word “tree” per se is not even mentioned in the constitution. Article 51-A(g) of the Fundamental duties states that “it is the fundamental duty of every citizen to protect and preserve forests, lakes and rivers and to have compassion for every living being.” The phrase “living being” should be interpreted to include trees as well. But unfortunately, this line of interpretation is not followed. The Indian Forest Act of 1927 provides the general legislative basis for the management and conservation of the nation’s forest resources, but state governments formulate and enact programmes, so the rules and regulations imposed by each state vary depending on the particular flora and fauna found in those states.

It is suggested by Forest Policy 1952 that one-

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third of the area of the country should be under forest cover. Pressing needs for development has resulted in the cutting of trees like making highways, airports and industries etc. B. H. Baden-Powell, one of the chief early advocates for the Forest Service, with one by E. P. Stebbing, an official historian of the Forest Service. Baden-Powell wrote in 1877: "if the wants, rights, and privileges of the people are pressing, rather give the whole right and income [of the forest] to the communal body than abandon the forest itself to destruction. Indian Forest Department was set up in 1864 with the objective of preventing illegal tree cutting by any person. However, in the last two decades, the Forest Department's operations have been scrutinised closely. It has been shown that state policies have excluded the majority of Indians, namely tribals and peasants, from its workings while favouring the interests of a small community of industrial and urban consumers.

### Causes of Cutting of Trees

Major causes of cutting of trees are agriculture, urbanization, illegal logging, paper industry etc.

- i. **Agriculture-** Due to the increasing need for food grains, a large number of trees are felled to grow crops, and subsistence agriculture accounts for 33% of agricultural caused deforestation.
- ii. **Illegal Logging-** Paper, matchsticks, furniture, and other wood-based industries require a significant amount of wood supplies. Wood is utilised as a fuel in two ways: directly and indirectly.
- iii. **Urbanization-** Roads are built for transportation of goods; trees are chopped to make highways. Overpopulation has a direct impact on forest cover because, as cities grow, more land is required to create homes and communities.
- iv. **Paper-** According to the Environment Paper Network, the amount of paper discarded each year accounts for nearly 640 million trees. America, China, Canada, and Japan produce more than half of the world's paper, or 400 million tonnes each year.<sup>6</sup>

### Legislations Regulating Cutting of Trees

India have multiple piece of legislation regarding environment protection but there is not even single central legislation for protection of trees although we have central legislations for forests, The Indian Forest Act of 1927, Forest (Conservation) Act, 1980,

The Air (Prevention and Control of Pollution) Act, 1981, The Water (Prevention and Control of Pollution) Act, 1974, The Environment Protection Act, 1986 (the "Environment Act"), The Wildlife Protection Act, 1972. Protection of trees is through state legislation. Every state has its own legislation to protect trees, almost similar to each.

### The Indian Forest Act of 1927

It was enacted to protect Indian forests. The Indian Forest Act of 1927 establishes a legal structure for forest management in India. It is the most important piece of forestry legislation. The aim of this piece of legislation is to make sure that:

- Consolidation and maintenance of forest-covered areas
- Wildlife management in forest areas
- Control the movement of forest resources
- Impose a tax on timber and other natural resources, as well as other forest products
- Categorization of areas into Reserved Forests, Protected Forests, and Village Forests.

### Negative aspects of Indian Forest Act 1927

- The act, according to the government, is intended to protect India's vegetation cover. However, a thorough analysis of the act shows that the true motivation for the act was to profit from the tree cutting and forest produce.
- The act granted the forest bureaucracy enormous discretion and control, which often resulted in persecution of forest dwellers.
- Furthermore, it resulted in the denial of nomads and tribal peoples' long-held rights and privileges to use forests and forest products.
- Timber's sales potential overshadowed other ideals such as biodiversity, soil erosion prevention, and so on.

### The Indian Forest Policy of 1952

It was a straightforward continuation of colonial forest policy. Agriculture was given priority, forests were cut to use land as agricultural land. In independent India this policy was introduced keeping in view the benefits which threes accrue.<sup>7</sup> It became aware, however, of the need to increase forest cover to one-third of total land area. Total annual revenue from forests was a critical national need at the time. Due to the two World Wars, the need for defence, construction projects such as river valley projects, industries such as pulp, paper, and plywood, and

communication, forest produce was heavily reliant on national interest, and as a result, vast swaths of land were cleared to generate revenue for the state.

### **The Forest Conservation Act of 1980**

It prohibits the use of forest land for non-forestry purposes. All demands and proposals to use forest land for development and infrastructure building, such as providing drinking water, irrigation projects, transmission lines, railways, electricity, defense, and mining, are enforced by the State government. The Forest Conservation Act of 1980 stipulated that in order to practice sustainable agro-forestry in forest areas, central permission are required. Violations or the absence of a permit is considered criminal offences.

Its goals included limiting deforestation, conserving biodiversity, and preserving wildlife. Despite the fact that this Act offers more hope for forest protection, it fell short of its goal. The Act also states that the state and other parties concerned should address compensatory afforestation, catchment area treatment, biodiversity and wildlife protection, and restoration of tribal communities living on forest lands for all forest land lost to such production.

The person, who contravenes or abets the contravention of any of the provisions of Section 2 relating to the use of forest land for non-forest use, shall be punishable with simple imprisonment for a period which may extend to fifteen days (FCA, 1980).

### **The National Forestry Policy 1988**

It emphasises the principle of joint forest management, in which villages and the appropriate forest department collaborate to manage small forest blocks. The ultimate goal of the National Forest Policy, established in 1988, was to preserve environmental stability and ecological balance by conserving forests as a natural heritage (Ravindranath *et al.*, 2008).

The National Forest Policy 1988 made a major and categorical move away from commercial interests and toward an emphasis on the forest's ecological position and participatory management. It solves the following purposes.

- Satisfy the basic needs of rural and tribal peoples,
- Increase the productivity of the forest
- Improve the efficiency with which forest products are used

- Reduce the amount of pressure on existing forests

With 85, 000 village committees in 27 Indian states controlling 17.3 million hectares of forest land, the Joint Forest Management scheme is probably the best and most successful strategy to emerge from the National Forestry Policy.

### **Wildlife Protection Act 1972**

When this act was passed then wildlife protection was in the state list. Parliament by using power provided under article 252 passed this Act. This Act focuses on protecting wild animals, trees, and tree species, and makes hunting and collecting them as a criminal offence. The National Tiger Conservation Authority and the Tiger and Other Endangered Species Crime Control Bureau are two such organisations (Wildlife Crime Control Bureau).

The Act was amended in January 2003, increasing the severity of the sanctions and fines for offences under the Act. The ministry proposed some additional changes to the laws by introducing strict steps to improve the Act. The aim of ecologically protected areas is to listen to endangered flora and fauna and provide protection.

### **Schedules Tribes and Other Traditional Forest Dwellers (Recognition and Forest Rights) Act, 2006**

This Act was enacted to grant exclusive rights and concessions, as well as to safeguard the way of life of forest-dependent communities who rely on forests for their daily sustenance and livelihood.

On 12<sup>th</sup> December 1996, the Supreme Court expanded the scope of the term 'forest'. Reinterpreting the Forest Conservation Act of 1980, the Supreme Court in the case of *T.N.Godavarman Thirumulkpad v. Union of India (W.P. (C) No. 171/96)* and *Environment Awareness Forum*, now included in its scope not only forests as mentioned in government records but all areas that are forests in the dictionary meaning of the term, irrespective of the nature of ownership and classification thereof. The Godavarman case, popularly known as the 'Forest Case', had far-reaching consequences:

1. No forest, National Park or Sanctuary can be de-reserved without the approval of the Supreme Court.
2. No non-forest activity is permitted in any National Park or Sanctuary even if prior approval under the Forest (Conservation) Act of 1980 has been obtained.

3. An interim order in 2000 prohibited the removal of any dead or decaying trees, grasses, driftwood etc. from any area comprising a National Park or Sanctuary. It was also directed that if any order to the contrary had been passed by any State government or other authorities, that order shall be stayed.
4. New authorities, committees and agencies have been set up such as the Central Empowered Committee (CEC) and the Compensatory Afforestation Management and Planning Agency.

From 1996 public interest litigation over forest use led to unprecedented action by the Supreme Court which issued sweeping directives to oversee the enforcement of forest laws across India. As a result of the Godavarman case all regularisations and conversion of forest villages were stayed, and it also precipitated a livelihood crisis for 3.5 to 4 million people who were denied removal of any forest produce from the protected areas. Sarin (Sarin Madhu 2002) comments: "The irony of this judicial environmental activism has been a further centralisation of power over the country's forest lands in the hands of the same bureaucracy against whose mismanagement the original PIL was filed (Bose Indrani, 2006).

### **Major Peoples Movement to prevent cutting of trees**

#### **Bishnoi Movement**

In Khejarli, the Marwar Region of Rajasthan order was made by authorities for cutting of trees in the year 1700. Amrita Devi couldn't stand witnessing such exploitation of the floral ecosystem. She hugged the trees to fight deforestation and encouraged others to do the same. This migration resulted in the deaths of about 360 Bishnoi residents.

#### **Chipko Movement**

A quarter-century had passed after a group of women in the Reni forests of the Garhwal Himalaya successfully chased away timber felling contractors on March 26, 1999. It was a non-political movement that emerged for the protection of trees. It also aimed to secure long-term economic well-being by preserving fuel and fodder, as well as preventing landslides and the disappearance of springs. This case became a watershed moment in the evolution of the world-famous the Chipko movement over time (Bandopadhyay, 1999). Slogan of this move-

ment was, "what do the forests bear? soil, water and pure air". People of Chipko Movement believe that it is not that the state will be able to protect the trees but the community has to come forward to protect it. A plan of afforestation could be successful only with the participation of the people.

#### **Save Silent Valley Movement**

Silent Valley is a tropical location in Kerala that is densely forested and rich in biodiversity. The thick evergreen cover, however, was to be deforested in 1978 for the Kerala State Electricity Board's building of a hydroelectric dam across the Kunthipuzha river (KSEB). Locals were concerned that the project will submerge at least 8.3 square kilometres of green space near the dam.

Several non-governmental organisations (NGOs) criticised the initiative and encouraged the government to cancel it. The Kerala Sastra Sahitya Parishad (KSSP), an NGO, and poet-activist Sughathakumari were key players in the Silent Valley protests. In January 1981, the administration finally caved in to public pressure and cancelled the project. The Silent Valley was designated as a protected area.

#### **Jungle Bachao Andolan**

In 1982, the state government of Bihar intended to replace natural Sal forests with expensive teakwood trees in the Singhbhum district. Singhbhum's tribals disputed the decision. Many environmentalists dubbed the movement 'Greed Game Political Populism.' It eventually expanded to Jharkhand and Odisha.

#### **Narmada Bachao Andolan (NBA)**

The movement's principal goal was to oppose the construction of three huge dams across the Narmada river. It began when individuals who had been displaced by the construction of the Sardar Sarovar Dam were not properly rehabilitated and resettled. Despite their failure, they shifted their focus to the preservation of the valley's environment and ecosystems. The NBA called into question the global model of unfettered development (Here are 5, 2021).

### **Conclusion**

Plants and animals are supplementary and complementary to each other. Forest protection is essential for the survival of life on the planet. With the pres-



ence of vital life forms, the quality of water and air was preserved. Stability in the soil is possible by tree planting. To ensure the foundation of land and animals trees are required. The importance of biodiversity in terms of food, medicine, and human health is growing. The carbon sink absorbs carbon dioxide and thus maintains global warming within the body.

Forests have an effect on climate and help to mitigate temperature extremes. They help to conserve soil while also controlling moisture and streamflow. Soil erosion and flooding are prevented as a result of this. Many industries, such as pulp-paper, newsprint, and sawmilling, received raw materials from the forests. The woods were also used as a source of fuelwood for house building. Teak, paper, natural resins, seeds, and other forest products were exported, and this is a very important service given by the forests. Forests are now becoming a source of revenue for the government, at least in the form of royalties on forest products. This also employs a significant number of people. Birds need habitat in the form of branches. Material for writing and other information should be stored digitally so that dependency on paper could be lessened.

With the development of electronic means burden on paper is reduced so there is lesser dependency on trees for making paper. Some habits that one should inculcate to save the trees are: The less we print, the less paper is used. If one needs to print, then he should print on both sides of the page. This will cut down the paper consumption by half, which saves half the number of trees in a forest. One should get his bills through e-mail instead of a printed copy. Getting bills in the mail will decrease the demand for paper. One should read magazines online. We should use the hand dryer in the bathroom instead of paper towels.

The state is duty-bound to prevent the cutting of trees. Providing a clean environment is the natural corollary of the right to life. Separate court for the protection of environment including trees has been established in 2010 in the form of the National Green Tribunal. Cutting of trees could be prevented by way of stringent laws and popular participation of people. The public should be conscious regarding

the planting of trees and preventing the cutting of trees.

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