

**E-Content**

*On*

## **Forest Policy and Legislation**

(Course Code:FSA 222) Credits: 2(2+0)

[For B. Sc. (Hons.) Forestry III<sup>rd</sup>Semester Students]



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## **PREFACE**

Forest Policy and Legislation (FSA-222) is a compulsory course offered to the students of B.Sc. (Hons.) Forestry, which includes Necessity of a Forest policy in a country. General basis of formulation, various considerations. National Forest Policies of 1894, 1952 and 1988 their comparative study, basis of their formulation and after effects. Constraints in the implementation of Forest Policy in India. Need based law for implementation of policy. National Forestry Action Program, formulation and constraint in implementation and State Forestry Action Programs. Code of Criminal Procedure, 1973- Definitions. Position of forest offences - Constitution and powers of Criminal courts and important sections .Code of Civil Procedure 1908 - Summons and discovery. Indian Penal Code, 1860 - Abetment of forest offences - Offences directly connected with forests and its produce and Protection extended by law to Forest Officers. Forest Law: legal definition. Indian Evidence Act, 1872 as applied to forestry matters. Indian Forest Act. Detailed study of IFA 1927. Forest (Conservation) Act, 1980 and its amendments. The Biological Diversity Act, 2002, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and Environmental Protection Act, 1986. Brief description about other major forest laws of regional, national and international significance. It has been long felt to develop a manual covering all the aspects of the above mentioned course which will be very useful for the UG students to understand the various field activities such as national forest policy, code of civil procedure and forest conservation act as well as biological diversity act. In developing the material for this manual, authors have relied upon the literature from several sources which is highly acknowledged.

The author extends her gratitude to our Hon'ble Vice Chancellor Dr. (Prof.) S.V.S.Raju, for his valuable guidance, encouragement and inspiration for preparation of this e- manual. Dr. Jagannath Pathak Director of Research, Dr. A.K. Shrivastva Director PMEC for their encouragement and help to write this manual. I hope, this manual will meet the requirement of undergraduate students studying forest policy.

**Authors**

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## DECLARATION

This E-content on course “**Forest Policy and Legislation (FSA-222)**” is prepared according to the syllabus recommended by the ICAR 6<sup>th</sup> Dean Committee Report. The course “Forest Policy and Legislation (SA-1203)” is being offered by Department of Silviculture & Agroforestry to the undergraduate students of B.Sc. (Hons) Forestry degree Programme. This study material is prepared by consulting different text and reference books, package of practice manuals, online sources such as University websites, e-documents, e-books, e-data and other available off-line sources. The authors do not claim for originality of work. The purpose of this E-content is just to provide the study material to students of B.Sc. (Hons) Forestry degree Programme as reference material for easy and better understanding of the course. This is not meant for the commercial use. The multiplication of this content for commercial activity is prohibited.

## AUTHORS

## CONTENTS

S. N.	Contents	Page No.
1.	<b>Definition of forest policy</b>	
2.	<b>History of Forest Policy</b>	
3.	<b>Central Forestry administration and Organizations:</b>	
4.	<b>National Forest Policies: Forest policy, 1894</b>	
5.	<b>National Forest Policy, 1952</b>	
6.	<b>National Forest Policy, 1988</b>	
7.	<b>National Agroforestry Policy, 2014</b>	
8.	<b>Constraints in the implementation of Forest Policy in India</b>	
9.	<b>Indian Forest Act 1927</b>	
10.	<b>Code of Criminal Procedure, 1973</b>	
11.	<b>Code of Civil Procedure 1908-Forest</b>	
12.	<b>Indian Evidence Act, 1872</b>	
13.	<b>The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006</b>	
14.	<b>Biological Diversity Act, 2002</b>	
15.	<b>National Green Tribunal Act -2010</b>	
16.	<b>Forest (Conservation) Act, 1980</b>	
17.	<b>Forest Law</b>	
18.	<b>The Environment Protection Act 1986</b>	
19.	<b>Rights and Property</b>	
20.	<b>References</b>	

## Forest Policy and Legislation

**Definition of forest policy:** The written document for the general well being of the country approved by Indian constitution.

**Law:** Law is a body of principle recognized and applied by a state in the administration of justice.

**Act:** A law passed formally by a parliament.

**Article:** Legal documents.

**History of Forest Policy:** The ancient scriptures give descriptions of forests like Dandakarayana ,Nandavan and Khandavan. When Chandragupta Maurya came to power in 300 BC, he recognized the importance of forests and appointed a high official to look after the forests of his kingdom. He was assisted by a number of sub-ordinates. The forests were classed into

- (a) Those set aside for religious purposes.
- (b) Those reserved for the supply of forest produce.
- (c) Grazing ground for the royal elephants.
- (d) Hunting areas set aside for the general public.

Heavy penalties were imposed for killing animals like the elephant. The conditions of our forests rapidly deteriorated during the rule of the Muslims, Mughals and even during the early British rule when the East India Company was more interested exploiting its natural resources than being bothered by the need to manage the forests on scientific lines.

The year 1864 is regarded as the beginning of forest administration in India, as in that year **Brandis** was appointed as the first Inspector General of Forests. The first IGF was to advise them (the govt.) an all questions connected with forest administration and generally to introduce a through system of management under the govt. of India.

The foundations of present day forestry administration in India were laid by Brandis and during his tenure; He was able to organize forestry administration in most parts of the country.

### **Central Forestry administration and Organizations:**

In India, the forestry administration and Organization has developed both at the central and state govt. levels.

1. **Ministry of Environment Forests and Climate change:** The Ministry of Environment Forests and Climate change (MOEFCC) is the controlling Ministry for forests and Environment at the central govt. level. After independence, forests and wildlife were looked after by the Ministry of Agriculture. This is headed by a Minister of govt. of India.

**(a) Inspector General of Forest(IGF):**IGF is the head of the forest service in India and is an officer of the Indian Forest Service. He is the technical head on all matters pertaining to forests and wildlife in India. The main responsibilities of IGF are

1. Functioning as head of the forest service in the country.
2. Scrutinizing the forestry programs going on in various parts of the country.
3. Representing the country in different national and International forums, conferences and meetings.
4. Coordinating scientific management of forests in different parts of India, including the preparation of five year plans.
5. Guiding forestry research, education and training in India through organizations of the central government.
6. Advising the govt. of India on all matters related to forests and wildlife.
7. Coordinating wildlife conservation and management activities at national level.

**B.Additional Inspector General of Forests (Addl. IGF):**Two addl. IGF designated as

- a. Addl. IGF(General)
- b. Addl. IGF(Wildlife)

Addl. IGF assists the IGF in various matters such as

- i. Wildlife
- ii. Forest conservation and protection
- ii. Forest survey

**C. Deputy Inspector General of Forest (DIGF):** DIGF function either directly under the IGF or Addl. IGFs .

1. Research and training
2. Forest conservation
3. Wildlife
4. Forest Fire and protection
5. Forest Survey

**Assistant Inspector General of Forest (AIGF):** Who functioning under the DIGFs with their duties and responsibilities are above

2. **Central Board of Forestry:**In 1948, a conference of the forest ministers of various states was held and in this the need was felt for a central forestry organization for overseeing various activities at the national level.CBF was constituted with the minister for agriculture as its chairman.Other members of this board were

- a. Ministers from all states and union territories
- b. Two members from the lok sabha and one from the Rajya Sabha.
- c. IGF
- d. President, FRI
- e. Secretary CBF

**Function of CBF:**

1. Formulation and implementation of Forestry programmes
2. Integration of land use plans where forestry is expected to play a major role.
3. Coordinating forestry research
4. Reviewing the national forest policy

The board met once in every two years and served as the apex body for guiding forestry in the country. After the ministry of environment and Forests was created the minister of Environment and forests became the chairman of this board.

**3. Indian Council of Forestry Research and Education (ICFRE):** The ICFRE is an autonomous organization under the ministry of Environment and forests having being established in 1986, through autonomy was granted in 1991. ICFRE society is headed by the minister for Envs. and forests as its chairman. The Director General of the IGFRE is the chief executive of the ICFRE. The main objects of the ICFRE are

- a. To undertake, aid, promote and coordinate forestry education, research and its application.
- b. To generate forestry extension programmes
- c. To provide consultancy services in the field of forestry research, education and training.

The ICFRE functions through its headquarters at Dehradun and the following institutes located in different parts of the country.

1. FRI Dehradun
2. Himalayan Forest research Institute, Shimla
3. Arid Forest research Institute, Jodhpur
4. Tropical Forest Research Institute, Jabalpur
5. Rain Forest Research Institute Jorhat.
6. Institute of forest Productivity, Ranchi.
7. Institute of forest Genetics and tree Breeding, Coimbatore
8. Institute of Wood Science and Technology, Bengaluru
9. Advanced Research Centre for Bamboo and Rattan, Aizawl
10. Centre for Forest Based Livelihood and Extension (CFLE), Agartala
11. Centre for Forestry Research and Human Resource Development, Chhindwara

12. Centre for Social Forestry and Eco-Rehabilitation, Prayagraj

13. Institute of Forest Biodiversity, Hyderabad

**4. Indian Institute of Forest Management (IIFM),Bhopal:** Indian Institute of Forest Management (IIFM),Bhopal was established in 1982,as an autonomous Institute under the Ministry of Envs and Forests with the following objectives

a) To create a pool of experts in forest management and consultants available to both public and private corporations and agencies.

(b) To meet the requirements of the forestry sector with the latest information and skills for effective and efficient management.

c)To assist and carry out research in matters.

d) To impart training to the personal of state forest departments, forest development corporations and forestry related industries.

**5.Forest Survey of India (FSI)** The headquarters of the FSI are at Dehradun with regional offices in other parts of the country. This organization is headed by a Directors look after the activities of different regions.

Activities of FSI are

1. To conduct the regular surveys of forest recourses all over the country.

2. To publish the state of Forests report after every two years.

3. Mapping of forests on various scales mainly using remote sensing techniques.

4.Training officers of the forest departments.

The National Forest Data Management Centre is a part of the FSI.

**6.Indria Gandhi National Forest Academy, Dehradun (IGNFA):**IGNFA is the premier institution for training Indian forest Service officers. The IGNFA also trains officers from neighboring countries like Bhutan and Nepal. Its functions under the MOEF and is headed by a Director. The IGNFA was established as the Indian Forest College and its status was upgraded to that of National academy in 1986.

**Necessity for Forest Policy:** The situation regarding forests was that

(i.)There were not much revenue from many forest areas, except perhaps the sal and teak bearing areas.

(ii) The people took all that they required for their simple wants where they found it.

(iii) Trade in forest products including timber and the wood based industries were still in infancy.

(iv)There was not much difficulty in meeting the forest based requirements of the people and the government from forests which still covered a considerable part of the total geographical area of the country.

(v) Forest areas were largely considered to be an obstruction for the expansion of agriculture.

**Outline of a permanent forest policy:** In 1855, laid down for the first the outline of a permanent policy for forestry in the country. It came in response to the report submitted by McClelland.

**Factors affecting forest Policy:** Following factors are affects the forest policy of national or state.

1. The national priorities such as

- (i) Conservation of forests
- (ii) Biodiversity conservation
- (iii) Wildlife conservation and protection
- (iv) Ecological security
- (v) Research and training needs
- (vi) Survey of forest resources

(2) Regional priorities such as

- (i) Generating revenue
- (ii) Maintaining the water-cycle
- (iii) Wild life conservation and protection

(3) Local priorities

- (i) Meeting local timber and non timber needs.
- (ii) Rights and concessions
- (iii) Tribal's

(iv) Generation of employment.

### **National Forest Policies**

1. Forest policy, 1894
2. National Forest policy, 1952
3. National Forest policy, 1988
4. National Agroforestry Policy-2014

#### **1. Forest Policy of 1894:**

##### **Salient features:**

1. The main object for which the management of the forests is to promote the general well being of the country.
2. The maintenance of adequate forest is dictated primarily for the preservation of the climatic and physical conditions of the country and also for meeting the basic requirements of the people.
3. The government owned forests have been classified in this forest policy as:
  - (a) Forests whose preservation is required on climatic and physical grounds.
  - (b) Forests for supplying valuable timber for commercial purposes.
  - (c) Minor forests
  - (d) Pasture lands

(4) This policy further provides that:

- a. Permanent cultivation must get precedence over forestry.
- (b) Fulfillments of the basic forest based needs of the local people at non-competitive rates, if not free, should over-ride all considerations of revenue.
- (c) After the above conditions have been met with; obtaining the maximum revenue should be the main guiding factor.

**Drawbacks/Limitations:**

- (1) It was formulated to suit the needs of the British regime in India and also to further the cause of the empire, rather than those of the teeming millions of India.
- (2) Agriculture was to get priority over forestry and in fact it was even stated that wherever required, forests could be cleared for agriculture.
- 3) There were no specific provision for matters such as forestry research and training.
- (4) The forest policy provided little for solving the pressing problems such as shifting cultivation.
- 5) No minimum area for forest cover was prescribed.
- 6) No mention of the concept of sustained yield which formed the main plank of scientific forest management.

**2. National Forest Policy, 1952**

First national forest policy of independent India was formulated in 1952.

**Background and need for new forest policy:**

After independent in 1947, it was considered essential to re-formulate the forest policy that would be followed in the year to come. The concept and needs of forest management had changed over the year, particularly in the following respects.

1. There had been a tremendous increase in the human and animal population and thus the need for forest products and land for growing food.
2. Many industries utilizing forest products had come up.
3. New uses had been found for forest raw material which had been considered useless.
4. It was considered describe the combat the problem of shifting cultivation, which had devastated vast tracts.
5. It became necessary to lay down detailed guidelines for the management of wild animals.
6. The policy was required to give a specific indication of the proportion of the forest cover with respect to the total geographical area of the country.
7. It was also desirable that the govt. should provide the best facilities for forestry research and training.

The policy also suggested keeping a minimum of one third of the country's total land area under forests, with 60% in the Himalayas and hilly tracts liable to erosion and 20% in the plains.

### **Salient Features of National Forest Policy, 1952:**

1. In their Resolution No.22-F, dated the 19<sup>th</sup> October 1894, the Govt.of India in the department of Revenue and Agriculture enunciated in the broad outlines the general policy in the management of the State forests in the country. During interval that has since elapsed, developments of for reaching importance have taken place in the economic fields.
2. Fundamental concepts of policy.
3. **Vital national needs**-The National Forest Policy of India is formulated on the basis of six paramount needs of the country.
  - i.)The need for evolving a system of balanced and complementary land use, under which each type of land is allotted to that form of use under which it would product most and deteriorate least.
  - ii.)The need for checking
    - a.)Denudation in mountainous regions, on which depends the perennial water supply of the river system.
    - b.)The erosion progress in space along the treeless banks of the great rivers leading to ravine formation, and on vast stretches of undulating wastelands depriving the adjoining fields of their fertility.
    - c.The invasion of sea-sands on coastal tracts, and the shifting of sand dunes, more particularly in the Rajputana desert.
  - iii.) The need for establishing tree lands, where possible, for the amelioration of physical and climatic conditions promoting the general well being of the people.
  - iv.) The need for ensuring progressively increasing supplies of grazing, small wood for agricultural implements.
  - v.)The need for sustained supply of timber and other forest produce required for defence, communication and industries.
  - vi)The need for realization of the maximum annual revenue in perpetuity consistent with the fulfillment of the needs .

These vital needs indicate the functions forests are to fulfill, and provide the fundamental basis of the policy governing their future.

### **4. Functional Classification of Forests-**

#### **i.)Protected forest:**

**ii.) National forests:** for maintained and managed to meet the needs of defence, communications, industry and general purposes of public importance.

**iii.) Village forests:** Fulfillments of all requirements of local people.

**iv.)Tree lands:**These lands are essential for the amelioration of the physical conditions of the country.

5. Necessity of classification.

6. Two possible considerations.

i.) Neighboring areas are entitled to a prior claim over a forest and its produce.

ii.) Agricultural requirement has a preferential claim forest lands.

**(7. Claims of neighboring Communities-**Village communities in the neighborhood of a forest will naturally make greater use of its products for the satisfaction of their domestic and agricultural needs. Such use, however, should in no event be permitted at the cost of, national interests. the accident of village being situated close to a forest does not prejudice the right of the country as a whole to receive the benefits of a national asset. The scientific conservation of a forest inevitably involves the regulation of rights and the restriction of the privileges of user depending upon the value and importance of the forest, however, irksome such restraint may be to the neighboring areas. The Himalayan forests, for, instance, are the greatest of national assets; to them we owe the richness of the country. The denudation and under-development of the Himalayan slopes leads to greater intensity and frequency of floods, recurrent erosion, and to coarse detritus being deposited on the fertile submountane tracts. This process inflicts immeasurable loss and misery on the unsuspecting millions in the Indo-Gangetic Plain, and brings about a progressive and permanent of soil fertility, and a cumulative reduction in the agricultural potential of the whole land. While, therefore, the needs of the local population must be met to a reasonable extent, national interests should not be sacrificed because they are not directly discernible, nor should the rights and interests of future generations be subordinated to the improvidence of the present generation.

**8. Relinquishment of forest land for agricultural purposes-**The indiscriminate extension of agriculture and consequent destruction of forests have not only deprived the local population of fuel and timber, but have also stripped the land of its natural defences against dust-storms, hot desiccating winds, and erosion..

**9. Land use-**The correct solution of the land problem is -to evolve a system of balanced and complementary land use, under which each type of land is allotted to that form of use under which it would produce most and deteriorate least. A detailed survey .of lands with a view to their proper utilization is therefore, highly desirable.

**10. Protection forests-** Protection forests' denote forests found, or required, on hill slopes, river banks, sea-shores, or other erodable localities. In such sites the need for forest cover is dictated by purely protective physical considerations, such as prevention of erosion, conservation of moisture, and control of rushing torrents and floods. The role of such forests in saving the soil from being washed away and when

maintained in catchment areas, in the prevention of floods and maintenance of stream-flow, cannot be over emphasised.

**11. Reconditioning of hills and dales-**The progressive denudation of hill sides with serious repercussions on the fertility of the land, and the growing erosion along the banks of rivers, of which the Yamuna, the Chambal, the Mahi, the Narnada, the Kosi, and the Damodar are notorious examples, constitute the major considerations demanding immediate attention,

**12. The immobilization of the desert of Rajputana-**Attention also needs to be drawn here to the Rajputana desert, more particularly to -the fixation of the shifting sand dunes. Strong winds that develop .in this region during the summer, transport vast quantities of sand and salt from the sea and Runn of Cutch, whipping the desert into terrific dust storms, the fury of which is felt throughout the north-western India. The desert has spread through the ages causing the ‘westerling’ of the Indus and the ‘northering’ of the Sutlej, meeting an obstruction of sorts only along its eastern confines in the Aravallis. The immobilization of the desert and protection of the remaining fertile belts inside it constitutes one of the planks of the National Forest Policy.

**13. National forests-** ‘National forests’ constitute the basis of India's strength and wealth; for they comprise valuable timber bearing regions the produce of which is indispensable for defence, communications and vital industries. They have to be managed chiefly in the interest of the nation as a whole, and their organization and development is one of the most important functions of the States: Their management on scientific and business lines is essential for maintaining a sustained supply of wood for industry and of large timbers for defence, communications and other national purposes. The basic policy, so far as such forests are concerned, must be to attain national self-sufficiency in these vital supplies.

**14. Village forests-** ‘Village forests’ popularly termed fuel forests, are intended; in the main, to serve the needs of the surrounding villages in respect of small timber for housing and agricultural implements, fire-wood, leaves for manure and fodder, fencing thorns, grazing and edible forest products. The management of such village forests should aim at meeting the present as well as the future needs of the local population.

**15. Treelands-** Although ‘treelands’ are not part of regular forests, in a country like India where their increase, management, and development are vital to the needs of the people, they cannot well be left out of any well-considered policy. The creation of forests by State Forest Departments on such an elaborate, scale is ruled out at present by lack of funds and trained personnel. The only way in which some progress can be achieved is by making the whole nation ‘tree conscioues. Such consciousness will stimulate private

efforts at tree planting as has been demonstrated by the success-of the *National Vana Mahotsava* movement. It will also arrest the vandalism which feels no scruples in cutting down valuable trees, and create among the populace an urge to secure the protection of trees-a virtue as much to be desired as it is rare.

**16. Scope for increasing treelands**-State Government has a vast scope for an all-round 'increase in the area under treelands. Defence, Railways, Public Works Departments, Universities and Colleges, Boards, Municipalities and other local authorities, associations and institutions can lend helping hand by converting the lands at their disposal into treelands. Under the new Policy, it should be the duty of the Forest Departments concerned.

(a) To awaken the interest' of the authorities within their region in" the development extension's and establishment of tree lands;

(b) to draw up plans for such purposes bearing in mind' the need for species of commercial importance:

(c) to establish nurseries and seed stores in each area for the supply of saplings, plants and seeds:

(d) To supervise the planting of trees, and render such technical assistance as may be necessary for the development treelands; and

(e) to arouse tree consciousness among the people by publicity, by celebrating the *Vana Mahotsava*, and by encouraging the *Vana Premi Sangh*.

**17. Treelands in agricultural areas**-The importance of tree lands in the rural economy of the regions where agriculture constitutes the mainstay of the vast bulk of the population cannot be over-emphasized. Experience gained during the first two *Vana Mahotsavas* indicated a very considerable response in the countryside, where Government officers had prepared the, ground and created the necessary enthusiasm among the people.

**18. Control of private forests**-The ownership of private forests in States where they still exist vests in individuals. Such ownership must however, be regulated in the national interests so that the indiscriminate exercise of individual rights may not prejudice or endanger, general welfare regulation and control of private forests by the State on physical climatic and economic grounds is, therefore, imperative. Recent legislation in various States has assumed the following pattern:-

(1) Owners of private forests should, in the first instance, be given an opportunity to manage their forests in accordance with an approved working plan.

(2) In the case only of recalcitrant owners, who are tempted to sacrifice their capital for immediate gain, should the management of their forests be made to vest in Government by the process of law.

(3) The ownership of such 'vested forests' should remain, however, unaffected; and the transfer should relate only to management, the net profits arising there from, if any, accruing to the owner.

**19. Proportion of forest areas-**The proportion of land to be kept permanently under forests would naturally vary in different regions. Practical consideration suggests, however, that India, as a whole, should aim at maintaining one-third of its total land area under forests. As an insurance against denudation a much larger percentage of the land, about 60 per cent should be kept under forests for their protective functions in the Himalayas, the Deccan, and other mountainous tracts liable to erosion. In the plains, where the ground is flat and erosion is normally not a serious factor, the proportion to be attained should be placed at 20 per cent; and in view of the pressure of agriculture effort at the extension of treelands should be concentrated on river banks and other convenient places not suitable for agriculture.

**20. Wild Life-**The National Forest Policy emphasizes the need for affording protection to the animal kingdom and particularly to rare species such as the lion and the great one-horned rhinoceros, which are fast disappearing. While the damage caused by such predators as wild pigs, game and porcupine cannot be denied, the elimination of their natural enemies tends to multiply them. It is necessary, therefore, that bird and animal life should be controlled by special laws and rare fauna preserved by setting up sanctuaries and large-scale national parks. For this purpose, a Central Board for Wild life has been constituted by the Government of India in the Ministry of Food and Agriculture Resolution No. 7-110/51-F., dated 4th April, 1952.

**21. Grazing-**The controversial question of grazing in State forests calls for a clear definition of policy. Speaking generally, all grazing in forests, particularly unlimited or uncontrolled grazing, is incompatible with scientific forestry.. The formulation of the grazing policy should be based on the following cardinal principles:-

(a) Continuous grazing on the same area by larger herds is destructive of the better strains of grasses and leads to a deterioration of the grass complex. Wherever it is permitted and is in great demand, efforts should be made to introduce rotational grazing, the benefits of which should be explained and demonstrated to the villagers.

(b) Cheap forest grazing has a demoralizing effect and leads to the vicious spiral of reckless increase in the number of cattle, inadequate forest grazing, reduced quality of the herds and further increase in the numbers to offset the fall in quality. Free and indiscriminate forest grazing is, therefore, a serious disservice to cattle breeding.

(c) Grazing should not be looked upon primarily as a source of revenue. But the simple and obvious way of regulating and controlling grazing as also improving the quality both of grazing and cattle themselves, is to institute a reasonable fee for the privilege of grazing.

(d) Grazing must not be allowed in regeneration areas and young plantations during such periods as the seedlings require for establishment; otherwise they stand in danger of being browsed or trampled upon.

(e) Grazing incidence should be kept at a minimum in 'Protection Forests'.

**22. Sheep and goats-** Experience gained in India and elsewhere points to the imposition of restrictions on sheep grazing in forests, and the total exclusion of goats, there from. The damage to young plants caused by the browsing of these animals is often irreparable, and their admission into the forest is incompatible with the aims and objects of forest management. The creation of special fodder reserves under strict-rotational control is indicated for the purpose.

**23. Shifting cultivation-**The damage caused to forests by shifting cultivation in certain areas must be guarded against. To wean the aborigines, who eke out a precarious living from axe-cultivation moving from area to area, away from their age-old and wasteful practices, requires persuasion, not coercion; a missionary, not an authoritarian, approach. Possibilities of regulating shifting cultivation by combining it with forests regeneration (*Taungya*) to the benefit of both should be fully explored; Success in this direction largely depends on -enlisting the co-operation of the cultivators and gaining their confidence and, in showing consideration to their needs and wishes.

**24. Sustained yields-**With a view to conserving forest resources in perpetuity, the new forest policy requires scrupulous regard for sustained yield in the management of all classes of forests. The fluctuations in the annual out turn of forests upset State budgets, industries" and other national enterprises; all working plans, therefore, should aim at -confining them, within the narrowest limits.

- (a) the calculation of increment so that what is annually put on is annually \_cut, leaving the original assets intact or improved;
- (b) the preparation of the pams, and investigations on the propagation and tending of various species, their increment, the optimum conditions of their growth and the regulation of yield;
- (c) carefully planned afforestation schemes to replace inferior tree, growth by valuable species of commercial importance.

**25. Forest administration-**The efficiency of forest administration depends directly on the adequacy of the forest laws, the training and calibre of the professional forest services, and the progress of research on both the biological and the utilisation aspects of forestry.

**26. Forest legislation-**So far as forests under the control of the Central Government and of Part A States are concerned, adequate forest legislation exists in the Indian Forests Act and the Madras

Forest Act. In some of the Part B States, there are forests regulations having the force of law. But there are some Part B States where forests laws do not exist. It is necessary, therefore, that States without a proper forest Act should enact legislation at an early date on the lines of the Indian Forest Act, or validate that Act for their territory. Several States have already enacted legislation for the control of private forests; it is desirable that States which have no such laws should enact them early. While framing legislation for private - forests, States should not overlook the need for providing adequate staff for enforcing its provisions.

**27. Forest education**-Forestry courses are at present conducted for Forest Rangers and Superior Officers at the Forest Research Institute and Colleges. The States would, be well advised to continue taking advantage .of the facilities provided by the Central Government at Dehra Dun, associated with the well-equipped Forest' Research Institute, which enjoy n world-wide reputation. A" common forest education is a very effective means of inculcating an esprit de corps among officers; of developing a common, outlook in. forestry matters; and of ensuring concerted- and integrated.

**28. Training of field staff**-Attention has also to be directed to the proper training of lower executive staff on whose technical skill ultimately depends the proper execution of forest schemes and their extension. The tendency to start schools which are not properly equipped should be discouraged. It is necessary that contiguous States, should combine and - co-operate in establishing well-equipped and up-to-date training schools for the purpose of meeting their needs in the most economical manner.

**29. Services**--The idea held in some quarters that since forests grow by themselves, they need no technical management is based on ignorance. Inadequacy of technical personnel, and weakening of the professional standards of the men called upon to manage forests, would be followed not only by a loss of revenue but also by a general degradation of the forests, resulting in reduced output of forests produce and in deterioration of physical conditions.

**30. Forest Research**-Investigations in the biological aspects of forestry, among others Silviculture, Botany and Entomology, have naturally leaned heavily upon the co-operation of Forest Departments of various States, most of which have an organisation of their own for the purpose. The maintenance of a research organisation in each State commensurate with its resources and requirements is in the interests of efficient forest management of the country as a whole. Research

in the utilization of forest products has, on the other hand, always been initiated and conducted at the Forest Research Institute where special equipment for the purpose exists.

**31. Liaison with industry**-There is also considerable scope for improvement in securing the utilization of the results of research on forest products by commercial and industrial interests.

**32. Popular goodwill, co-operatives and forest workers**-While forest legislation, forest education, and forest research constitute the basis for sound forest management, the welfare and goodwill of the people in the neighborhood of forests provide the firm ground on which it stands. No forest policy, however well intentioned and meticulously drawn up, has the slightest chance of success without the willing support and co-operation of the people.

### **3. National Forest Policy, 1988**

#### **1. PREAMBLE**

1.1. In Resolution No.13/52/F, dated the 12th May, 1952, the Government of India in the erstwhile Ministry of Food and Agriculture enunciated a Forest Policy to be followed in the management of State Forests in the country. However, over the years, forests in the country have suffered serious depletion. This is attributable to relentless pressures arising from ever-increasing demand for fuel-wood, fodder and timber; inadequacy of protection measures; diversion of forest lands to non-forest uses without ensuring compensatory afforestation and essential environmental safeguards; and the tendency to look upon forests as revenue earning resource. The need to review the situation and to evolve, for the future, a new strategy of forest conservation has become imperative. Conservation includes preservation, maintenance, sustainable utilization, restoration, and enhancement of the natural environment. It has thus become necessary to review and revise the National Forest Policy.

#### **2. BASIC OBJECTIVES**

2.1 The basic objectives that should govern the National Forest Policy - are the following:

- (a) 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.
- (b) Conserving the natural heritage of the country by preserving the remaining natural forests with the vast variety of flora and fauna, which represent the remarkable biological diversity and genetic resources of the country?

(c) Checking soil erosion and denudation in the catchment areas of rivers, lakes, reservoirs in the "interest of soil and water conservation, for mitigating floods and droughts and for the retardation of siltation of reservoirs.

(d) Checking the extension of sand-dunes in the desert areas of Rajasthan and along the coastal tracts.

(e) Increasing substantially the forest/tree cover in the country through massive afforestation and social forestry programmes, especially on all denuded, degraded and unproductive lands.

(f) Meeting the requirements of fuel-wood, fodder, minor forest produce and small timber of the rural and tribal populations.

(g) Increasing the productivity of forests to meet essential national needs.

(h) Encouraging efficient utilization of forest produce and maximizing substitution of wood.

(i) Creating a massive people's movement with the involvement of women, for achieving these objectives and to minimise pressure on existing forests.

2.2 The principal aim of Forest Policy must be to ensure environmental stability and maintenance of ecological balance including atmospheric equilibrium, which is vital for sustenance of all lifeforms, human, animal and plant. The derivation of direct economic benefit must be subordinated to this principal aim.

### **3. ESSENTIALS OF FOREST MANAGEMENT**

3.1 Existing forests and forest lands should be fully protected and their productivity improved. Forest and vegetal cover should be increased rapidly on hill slopes, in catchment areas of rivers, lakes and reservoirs and ocean shores and, on semi-arid and desert tracts.

3.2 Diversion of good and productive agricultural lands to forestry should be discouraged in view of the need for increased food production.

3.3 For the conservation of total biological diversity, the network of national parks, sanctuaries, biosphere reserves and other protected areas should be strengthened and extended adequately.

3.4 Provision of sufficient fodder, fuel and pasture, specially in areas adjoining forest, is necessary in order to prevent depletion of forests beyond the sustainable limit. Since fuel wood continues to be the predominant source of energy in rural areas, the programme of afforestation should be intensified with special emphasis on augmenting fuelwood production to meet the requirement of the rural people.

3.5 Minor forest produce provides sustenance to tribal population and to other communities residing in and around the forests. Such produce should be protected, improved and their production enhanced with due regard to generation of employment and income.

### **4. STRATEGY**

## **4.1 Area under Forests**

The national goal should be to have a minimum of one-third of the total land area of the country under forest or tree cover. In the hills and in mountainous regions, the aim should be to maintain two-third of the area under such cover in order to prevent erosion and land degradation and to ensure the stability of the fragile eco-system.

## **4.2 Afforestation, Social Forestry & Farm Forestry**

4.2.1 A massive need-based and time bound programme of afforestation and tree planting, with particular emphasis on fuel wood and fodder development, on all degraded and denuded lands in the country, whether forest or non-forest land, is a national imperative.

4.2.2 It is necessary to encourage the planting of trees alongside of roads, railway lines, rivers and streams and canals, and on other unutilised lands under State/corporate, institutional or private ownership. Green belts should be raised in urban/industrial areas as well as in arid tracts. Such a programme will help to check erosion and desertification as well as improve the microclimate.

4.2.3 Village and community lands, including those on foreshores and environs of tanks, not required for other productive uses, should be taken up for the development of tree crops and fodder resources. Technical assistance and other inputs necessary for initiating such programmes should be provided by the Government.

4.2.4 Land laws should be so modified wherever necessary so as to facilitate and motivate individuals and institutions to undertake tree-farming and grow fodder plants, grasses and legumes on their own land. Wherever degraded lands should be made available for this purpose either on lease or on the basis of a tree-patta scheme.

## **4.3 Management of State Forests**

4.3.1 Schemes and projects which interfere with forests that clothe steep slopes, catchments of rivers, lakes, and reservoirs, geologically unstable terrain and such other ecologically sensitive areas should be severely restricted. Tropical rain/moist forests, particularly in areas like Arunachal Pradesh, Kerala, Andaman & Nicobar Islands, should be totally safeguarded.

4.3.2 No forest should be permitted to be worked without - the Government having approved the management plan, which should be in a prescribed format and in keeping with the National Forest Policy. The Central Government should issue necessary guidelines to the State Governments in this regard and monitor compliance.

4.3.3 In order to meet the growing needs for essential goods and services which the forests provide, it is necessary to enhance forest cover and productivity of the forests through the application of scientific and

technical inputs. Production forestry programmes, while aiming at enhancing the forest cover in the country, and meeting national needs, should also be oriented to narrowing, by the turn of the century, the increasing gap between demand and supply of fuel wood.

#### **4.3.4 Rights and Concessions**

4.3.4.1 The rights and concessions, including grazing, should always remain related to the carrying capacity of forests. The capacity itself should be optimised by increased investment, silvicultural research and development of the area. Stall-feeding of cattle should be encouraged'. The requirements of the community, which cannot be met by the rights and concessions so determined, should be met by development of social forestry outside the reserved forests.

4.3.4.2 The holders of customary rights and concessions in forest areas should be motivated to identify themselves with the protection and development of forests from which they derive benefits. The rights and concessions from forests should primarily be for the bonafide use of the communities living within and around forest areas, specially the tribal's.

4.3.4.3 The life of tribals and other poor living within and near forests revolves around forests. The rights and concessions enjoyed by them should be fully protected. Their domestic requirements of fuelwood, fodder, minor forest produce and construction timber should be the first charge on forest produce.

4.3.4.4 Similar consideration should be given to scheduled castes and other poor living near forests. However, the area, which such consideration should cover, would be determined by the carrying capacity of the forests.

4.3.5 Wood is in short supply. The long-term solution for meeting the existing gap lies in increasing the productivity of forests, but to relieve the existing pressure on forests for the demands of railway sleepers, construction industry (particularly in the public sector), furniture and paneling, mine-pit props, paper and paper board etc. substitution of wood needs to be taken recourse to. Similarly, on the front of domestic energy, fuelwood needs to be substituted as far as practicable with alternate sources like bio-gas, LPG and solar energy. Fuel-efficient "Chulhas" as a measure of conservation of fuelwood need to be popularised in rural areas.

#### **4.4 Diversion of Forest Lands for Non-forest purposes**

4.4.1 Forest land or land with tree cover should not be -treated merely as a resource readily available to be utilised for various projects and programmes, but as a national asset which requires to be properly safeguarded for providing sustained benefits to the entire community. Diversion of forest land for any non-forest purpose should be subject to the most careful examinations by specialists from the standpoint of social and environmental costs and benefits. Construction of dams and reservoirs, mining and industrial

development and expansion of agriculture should be consistent with the needs for conservation of trees and forests. Projects which involve such diversion should at least provide in their investment budget, funds for regeneration/compensatory afforestation.

4.4.2 Beneficiaries who are allowed mining and quarrying in forest land and in land covered by trees should be required to repair and re-vegetate the area in accordance with established forestry practices. No mining lease should be granted to any party, private or public, without a proper mine management plan appraised from the environmental angle and enforced by adequate machinery.

#### **4.5 Wildlife Conservation**

Forest Management should take special care of the needs of wildlife conservation, and forest management plans should include prescriptions for this purpose. It is especially essential to provide for "corridors" linking the protected areas in order to maintain genetic continuity between artificially separated sub-sections of migrant wildlife.

#### **4.6 Tribal People and Forests**

Having regard to the symbiotic relationship between the tribal people and forests, a primary task of all agencies responsible for forest management, including the forest development corporations should be to associate the tribal people closely in the protection, regeneration and development of forests as well as to provide gainful employment to people living in and around the forest. While safeguarding the customary rights and interests of such people, forestry programmes should pay special attention to the following:

(a) One of the major causes for degradation of forest is illegal cutting and removal by contractors and their labour. In order to put an end to this practice, contractors should be replaced by institutions such as tribal cooperatives, labour cooperatives, government corporations, etc. as early as possible;

(b) Protection, regeneration and optimum collection of minor forest produce along with institutional arrangements for the marketing of such produce;

(c) Development of forest villages on par with revenue villages;

(d) Family oriented schemes for improving the status of the tribal beneficiaries; and Undertaking integrated development programmes to meet the needs of the tribal, economy in and around the forest areas, including the provision of alternative sources of domestic energy on a subsidized basis, to reduce pressure on the existing forest areas.

#### **4.7 Shifting Cultivation**

Shifting cultivation is affecting the environment and productivity of land adversely. Alternative avenues of income, suitably harmonized with the right land use practices, should be devised to discourage shifting cultivation. Efforts should be made to contain such cultivation within the area already affected, by propagating improved agricultural practices. Area already damaged by such cultivation should be rehabilitated through social forestry and energy plantations.

#### **4.8 Damage to Forests from Encroachments, Fires and Grazing**

4.8.1 Encroachment on forest lands has been on the increase. This trend has to be arrested and effective action taken to prevent its continuance. There, should be no regularisation of existing encroachments.

4.8.2 The incidence of forest fires in the country is high. Standing trees and fodder are destroyed on a large scale and natural regeneration annihilated by such fires. Special precautions should be taken during the fire season. Improved and modern management practices should be adopted to deal with forest fires.

4.8.3 Grazing in forest areas should be regulated with the involvement of the community. Special conservation areas, young plantations and regeneration areas should be fully protected. Grazing and browsing in forest areas need to be controlled. Adequate grazing fees should be levied to discourage people in forest areas from maintaining large herds of non-essential livestock.

#### **4.9 Forest-based Industries**

The main considerations governing the establishment of forest-based industries and supply of raw material to them should be as follows:

(a) As far as possible, a forest-based industry should raise the raw material needed for meeting its own requirements, preferably by establishment of a direct relationship between the factory and the individuals who can grow the raw material by supporting the individuals with inputs including credit, constant technical advice and finally harvesting and transport services.

(b) No forest-based enterprise, except that at the village or cottage level, should be permitted in the future unless it has been first cleared after a careful scrutiny with regard to assured availability of raw material. In any case, the fuel, fodder and timber requirements of the local population should not be sacrificed for this purpose.

(c) Forest-based industries must not only provide employment to local people on priority but also involve them fully in raising trees and raw-material.

(d) Natural forests serve as a gene pool resource and help to maintain ecological balance. Such forests will not, therefore, be made available to industries for undertaking plantation and for any other activities.

(e) Farmers, particularly small and marginal farmers, would be encouraged to grow, on marginal/degraded lands available with them, wood species required for industries. These may also be grown along with fuel

and fodder species on community lands not required for pasture purposes, and by Forest department/corporations on degraded forests, not earmarked for natural regeneration.

(f) The practices of supply of forest produce to industry at concessional. Prices should cease. Industry should be encouraged to use alternative raw materials. Import of wood and wood products should be liberalized.

(g) The above considerations will, however, be subject to the current policy relating to land ceiling and land-laws.

#### **4.10 Forest Extension**

Forest conservation programme cannot succeed without the willing support and cooperation of the people. It is essential, therefore, to inculcate in the people, a direct interest in forests, their development and conservation, and to make them conscious of the value of trees, wildlife and nature in general. This can be achieved through the involvement of educational institutions, right from the primary stage. Farmers and interested people should be provided opportunities through institutions like Krishi Vigyan Kendras, Trainers' Training Centres to learn agrisilvicultural and silvicultural techniques to ensure optimum use of their land and water resources. Short term extension courses and lectures should be organised in order to educate farmers. For this purpose, it is essential that suitable programmes are propagated through mass media, audio -visual aids and the extension machinery.

#### **4.11 Forestry Education**

Forestry should be recognised both as a scientific discipline as well as profession. Agriculture universities and institutions, dedicated to the development of forestry education should formulate curricula and courses for imparting academic education and promoting postgraduate research and professional excellence, keeping in view the manpower needs of the country. Academic and professional qualifications – in forestry should be kept in view for recruitment to the Indian Forest Service and the State Forest Service. Specialised and orientation courses for developing better management skills by in-service training need to be encouraged, taking into account the latest development in forestry and related disciplines.

#### **4.12 Forestry Research**

With the increasing recognition of the importance of forests for environmental health, energy and employment, emphasis must be laid on scientific forestry research, necessitating adequate strengthening of the research base as well as new priorities for action. Some broad priority areas of research and development needing special attention are:

(a) Increasing the productivity of wood and other forest produce per unit of area per unit time by the application of modern scientific and technological methods.

- (b) Revegetation of barren/marginal/waste/mined lands and watershed areas.
- (c) Effective conservation and management of existing forest resources (mainly natural forest ecosystems).
- (d) Research related to social forestry for rural/ tribal development.
- (e) Development of substitutes to replace wood and wood products.
- (f) Research related to wildlife and management of national parks and sanctuaries.

#### **4.13 Personnel Management**

Government policies in personnel management for professional foresters and forest scientists should aim at enhancing their professional competence and status and attracting and retaining qualified - and motivated personnel.

#### **4.14 Forest Survey and Data Base**

Inadequacy of data regarding forest resources is a matter of concern because this creates a false sense of complacency. Priority needs to be accorded to completing the survey of forest resources in the country on scientific lines and to updating information. For this purpose, periodical collection, collation and publication of reliable data on relevant aspects of forest management needs to be improved with recourse to modern technology and equipment.

#### **4.15 Legal Support and Infrastructure Development**

Appropriate legislation should be undertaken, supported by adequate infrastructure, at the Centre and State levels in order to implement the Policy effectively

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#### **4.16 Financial Support for Forestry**

The objectives of this revised Policy cannot be achieved without the investment of financial and other resources on a substantial scale. Such investment is indeed fully justified considering the contribution of forests in maintaining essential ecological processes and life support systems and in preserving genetic diversity. Forests should not be looked upon as a source of revenue. Forests are a renewable natural resource. They are a national asset to be protected and enhanced for the well-being of the people and the Nation.

### **4. National Agroforestry Policy 2014**

Agroforestry is defined as a land use system which integrates trees and shrubs on farmlands and rural landscapes to enhance productivity, profitability, diversity and ecosystem sustainability. It is a dynamic, ecologically based, natural resource management system that, through integration of woody perennials on farms and in the agricultural landscape, diversifies and sustains production and builds social institutions. Major policy initiatives, including the National Forest Policy 1988, the National Agriculture Policy 2000, Planning Commission Task Force on Greening India 2001, National Bamboo Mission 2002, National Policy on Farmers, 2007 and Green India Mission 2010, emphasize the role of agroforestry for efficient nutrient cycling, organic matter addition for sustainable agriculture and for improving vegetation cover. However, agroforestry has not gained the desired importance as a resource development tool due to various factors.

A policy which deals with problems faced by agroforestry sector, including adverse policies, weak markets and a dearth of institutional finance was approved by the Cabinet in February 2014. India became the world's first country to adopt a comprehensive agroforestry policy.

### **Background**

Throughout the world, most agroforestry systems have been practiced since the Neolithic period. Indians consider Ashok Vatika, a garden in Hindu epic Ramayana, which consisted of plants and fruit-bearing trees, as an example of an agroforestry system. Even today, there are many rituals associated with the trees and agricultural farms in India. Since the 1970s, in line with initiatives taken by other countries, the Indian government has also promoted research in the field of agroforestry. Even though agriculture was valued by social and religious practices; some experts noted that various government regulations were seen as an impediment in advancing agroforestry.

Another aspect for the need of an agroforestry policy was the lack of the forest and tree cover in India. According to the Forest Survey of India in 2023, the country had 80.7 million hectares of forest and tree cover, which accounts to 24.56% of the total geographic area in the country; however, the country requires one third (33.3%) of its land under forest and tree cover, according to the National Forest Policy.

### **Policy**

Before 2014, as there was no dedicated government agency overlooking agroforestry in India, it could not amass enough encouragement from the government. Although agroforestry was practiced on a restricted scale, 60% of the country's timber requirement was fulfilled by the same. Experts traced the reasons for such limited results to mainly technical, regulatory, and financial hurdles faced by farmers, which raised the need for an agroforestry policy in India.

### **Goals**

- Setting up a national nodal authority to bring in coordination among different schemes, programs, and policies pertaining to agroforestry spread across diverse agriculture development sectors of the government.
- Raising the economic condition of small farmers by increasing productivity and exploiting agroforestry systems.
- Preserving the environment and meeting the increasing requirements of timber and other agroforestry products.
- Growing the forest and tree cover in the country.

### **Basic objectives**

- Encourage and expand tree plantation in complementarity and integrated manner with crops and livestock to improve productivity, employment, income and livelihoods of rural households, especially the small holder farmers.
- Protect and stabilize ecosystems, and promote resilient cropping and farming systems to minimize the risk during extreme climatic events.
- Meet the raw material requirements of wood based industries and reduce import of wood and wood products to save foreign exchange.
- Supplement the availability of agroforestry products (AFPs), such as the fuel-wood, fodder, non-timber forest produce and small timber of the rural and tribal populations, thereby reducing the pressure on existing forests.
- Complement achieving the target of increasing forest/tree cover to promote ecological stability, especially in the vulnerable regions.
- Develop capacity and strengthen research in agroforestry and create a massive people's movement for achieving these objectives and to minimize pressure on existing forests.

### **Strategy**

#### **1. Establishment of Institutional Setup at National level to promote Agroforestry**

- An institutional mechanism, such as a Mission or Board is to be established for implementing the agroforestry policy. It will provide the platform for the multi-stakeholders to jointly plan and identify the priorities and strategies, for inter-ministerial coordination, programmatic convergence, financial resources mobilization and leveraging, capacity building facilitation, and technical and management support.
- The Ministry of Agriculture has the mandate for agroforestry. Agroforestry Mission / Board will be located in the Department of Agriculture and Cooperation (DAC) in the Ministry of Agriculture (MoA).

- The actual implementation may involve convergence and dovetailing with a number of programmes.
  - Agroforestry research and development (R&D), including capacity development and pilot studies / testing and action research should be the responsibility of the ICAR
  - In the proposed institutional arrangement the current stakes of the key ministries are to be respected and utilized.
2. **Simple regulatory mechanism** - There is a need to create simple mechanisms / procedures to regulate the harvesting and transit of agroforestry produce within the State, as well as in various States forming an ecological region. There is also the need to simplify procedures, with permissions extended on automatic route as well as approval mode through a transparent system within a given time schedule. There are regulations imposed by multiple agencies of State governments (viz. Department of Forest, land revenue, other local bodies) on harvesting and transit which have negative implications on the growth of agroforestry. All these restricting regulations need to be identified and aligned with the proposed simplified mechanism.
  3. Development of a sound database & information system
  4. Investing in research, extension and capacity building and related services
  5. Improving farmers' access to quality planting material
  6. Providing institutional credit and insurance cover for agroforestry
  7. Facilitating increased participation of industries dealing with agroforestry produce
  8. Strengthening farmer access to markets for tree products.
  9. Incentives to farmers for adopting agroforestry
  10. Promoting sustainable agroforestry for renewable biomass based energy

### **Constraints in the implementation of Forest Policy in India:**

Constraints in implementing India's forest policy include a lack of effective community participation and rights recognition, especially regarding the **Forest Rights Act (FRA)**; conflicts between forest-dwelling communities and human-wildlife conflicts due to habitat loss; and institutional challenges like bureaucratic resistance, slow processing of claims, and insufficient interdepartmental coordination. Other hurdles are the degradation of forests from deforestation and illegal logging, and the disconnect between policy goals and the realities of growing demand for forest products.

#### **1. Community and rights-related constraints**

- **Slow and incomplete recognition of community rights:** There is a significant delay in recognizing and implementing the community rights to access and manage forests as intended by the FRA.

- **Resistance to community consent:** Traditional rights of communities to manage forests independently are often undermined by a top-down approach.
- **Bureaucratic resistance and apathy:** The Forest Department and other government bodies sometimes resist the full implementation of the FRA.
- **Political and procedural hurdles:** Political opportunism, complex evidentiary requirements, and procedural delays hinder the smooth recognition of rights.
- **Focus on individual vs. community rights:** A focus on individual rights has sometimes overshadowed the need to address collective and community-based rights.

## **2. Institutional and governance constraints**

- **Interdepartmental coordination:** A lack of coordination between departments, such as the Forest Department and Tribal Department, poses a significant challenge.
- **Insufficient staff and resources:** Forest departments often face staff shortages and lack the resources for effective implementation.
- **Limited decision-making power:** The decision-making power of lower-level forest staff is often limited, which can slow down progress.
- **Mismatch between goals and outcomes:** The policy is sometimes not implemented efficiently, or it produces different outcomes than intended.

## **3. Environmental and resource-related constraints**

- **Deforestation and degradation:** Forests are degrading due to deforestation for agriculture, urbanization, and industrial activities.
- **Illegal logging and encroachment:** Unauthorised encroachment and illegal logging continue to reduce forest land and resources.
- **Human-wildlife conflict:** Habitat loss and encroachment lead to increasing conflicts between humans and wildlife, creating negative perceptions of forest conservation efforts.
- **Growing demand for resources:** The growing demand for fuel, fodder, timber, and other forest products puts immense pressure on forest resources.
- **Forest fires:** Forest depletion is also exacerbated by fires.

### **Indian Forest Act 1927:**

The Indian Forest Act of 1878 was amended by the Indian Forest (Amendment) acts of 1890, 1918 and 1919. The earlier act of 1878 needed amendments to suit the changing forestry scenario in the country. It was in this context that the Indian Forest Act was enacted in 1927. It was later amended in 1948 and is the main legislation dealing with forests in India today.

### **Summary and Comments:**

This act is divided into 13 Chapters and 86 sections.

## **CONTENTS**

### **CHAPTER I: PRELIMINARY**

1. Short title and extent
2. Interpretation clause

### **CHAPTER II:RESERVED FORESTS(Section 3 to 27)**

3. Power to reserve forests
4. Notification by State Government
5. Bar of accrual of forest-rights
6. Proclamation by Forest Settlement-officer
7. Inquiry-by Forest Settlement-officer
8. Powers of Forest Settlement-officers
9. Extinction of rights
10. Treatment of claims relating to practice of shifting cultivation
11. Power to acquire land over which right is claimed
12. Order on claims to rights of pasture or to forest-produce
13. Record to be made by Forest Settlement-officer
14. Record where he admits claim
15. Exercise of rights admitted
16. Commutation of rights
17. Appeal from order passed under section 11, section 12, section 15 or section 16
18. Appeal under section 17
19. Pleadings
20. Notification declaring forest reserved
21. Publication of translation of such notification in neighbourhood of forest
22. Power to revise arrangement made under section 15 or section 18
23. No right acquired over reserved forest, except as here provided
24. Rights not to be alienated without sanction
25. Power to stop ways and water-courses in reserved forests
26. Acts prohibited in such forests
27. Power to declare forest no longer reserved

### **• CHAPTER III:VILLAGE-FORESTS(Section 28)**

28. Formation of village-forests

### **• CHAPTER IV:PROTECTED FORESTS(Section 29 to 34)**

29. Protected forests

30. Power to issue notification reserving trees, etc.
31. Publication of translation of such notification in neighborhood
32. Power to make rules for protected forests
33. Penalties for acts in contravention of notification under section 30 or of rules under section 32
34. Nothing in this Chapter to prohibit acts done in certain cases
- **CHAPTER V:THE CONTROL OVER FORESTS AND LANDS NOT BEING THE PROPERTY GOVERNMENT (Section 35 to 38)**
35. Protection of forests for special purposes
36. Power to assume management of forests
37. Expropriation of forests in certain cases
38. Protection of forests at request of owners
- **CHAPTER VI:THE DUTY ON TIMBER AND OTHER FOREST-PRODUCE (Section 39 to 40)**
39. Power to impose duty' on timber and other forest-produce
40. Limit not to apply to purchase-money or royalty
- **CHAPTER VII:THE CONTROL OF TIMBER AND OTHER FOREST-PRODUCE IN TRANSIT (Section 41 to 44)**
41. Power to make rules to regulate transit of forest-produce
- 41A. Powers of Central Government as to movements of timber across customs frontiers
42. Penalty for breach of rules made under section 41
43. Government and Forest-officers not liable for damage to forest-produce at depot
44. All persons bound to aid in case of accidents at depot.
- **CHAPTER VIII:THE COLLECTION OF DRIFT AND STRANDED TIMBER (Section 45 to 51)**
45. Certain kinds of timber to be deemed property of Government until title thereto proved, and may be collected accordingly
46. Notice to claimants of drift timber
47. Procedure on claim preferred to such timber
48. Disposal of unclaimed timber
49. Government and its officers not liable for damage to such timber
50. Payments to be made by claimant before timber is delivered to him
51. Power to make rules and prescribe penalties
- **CHAPTER IX :PENALTIES AND PROCEDURE (Section 52 to 69)**
52. Seizure of property liable to confiscation

53. Power to release property seized under section 52
54. Procedure thereupon
55. Forest-produce, tools, etc., when liable to confiscation
56. Disposal on conclusion of trial for forest-offence, of produce in respect of which it was committed
57. Procedure when offender not known, or cannot be found
58. Procedure as to perishable property seized under section 52
59. Appeal from orders under section 55, section 56 or section 57
60. Property when to vest in Government
61. Saving of power to release property seized
62. Punishment for wrongful seizure
63. Penalty for counterfeiting or defacing marks on trees and timber and for altering boundary marks
64. Power to arrest without wan-ant
65. Power to release on a bond a person arrested
66. Power to prevent commission of offence
67. Power to try offences summarily
68. Power to compound offences
69. Presumption that forest-produce belongs to Government
- **CHAPTER X:CATTLE-TRESPASS(Section 70 to 71)**
70. Cattle-trespass Act, 187 1, to apply
71. Power to alter fines fixed under that Act
- **CHAPTER XI:FOREST-OFFICERS(Section 72 to 75)**
72. State Government may invest Forest-officers with certain powers
73. Forest-officers deemed public servants
74. Indemnity for acts done in good faith
75. Forest-officers not to trade
- CHAPTER XII:SUBSIDIARY RULES (Section76 to 78)**
76. Additional powers to make rules
77. Penalties for breach of rules
78. Rules when to have force of law
- CHAPTER XIII:MISCELLANEOUS (Section79 to 86)**
79. Persons bound to assist Forest-officers and Police-officers
80. Management of forests the joint property of Government and other persons
81. Failure to perform service for which a share in produce of Government forest is employed

82. Recovery of money due to Government
83. Lien on forest-produce for such money
84. Land required under this Act to be deemed to be needed for a public purpose under the Land Acquisition Act, 1894
85. Recovery of penalties due under bond
- 85A. Saving for rights of Central Government
86. [Repealed.]

### **Code of Criminal Procedure, 1973-**

The Code of Criminal Procedure, 1973 (**CrPC**) does not contain specific definitions for "forest offences". Instead, these offences are defined and primarily governed by special laws, such as the Indian Forest Act, 1927 and the Wild Life (Protection) Act, 1972.

### **Position of Forest Offences under CrPC, 1973**

The CrPC's position on forest offences is defined by Section 4 and Section 5 of the Code, which state:

- All offences under the Indian Penal Code shall be investigated, inquired into, and tried according to the provisions of the CrPC.
- All offences under any other law (including the Indian Forest Act and the Wild Life (Protection) Act) shall also be investigated, inquired into, and tried according to the same provisions, unless the special Act provides for a *specific* procedure. In that case, the special procedure prevails.

The Indian Forest Act and Wild Life (Protection) Act provide for certain special procedures and powers, which means:

- **Special Procedures Prevail:** Specific provisions in the forest laws regarding search, seizure, arrest, confiscation of property, and recording of evidence often override the general provisions of the CrPC. For example, some state amendments to the Indian Forest Act create a bar on the jurisdiction of regular courts in certain property confiscation cases, granting exclusive power to an authorized forest officer or the State Government.
- **CrPC as a Supplementary Law:** Where the special acts are silent on a particular procedure (such as detailed guidelines for investigation), the provisions of the CrPC are generally applied.
- **Cognizable Offences:** Offences under the Indian Forest Act punishable with imprisonment of one month or more are considered cognizable offences, meaning a forest officer has the power to arrest without a warrant.

### **Definitions**

The CrPC defines general terms applicable to all criminal matters, such as "bailable offence", "cognizable offence", "inquiry", "investigation", "judicial proceeding", and "police station" (Section 2).

The specific definition of a "forest offence" is found in the Indian Forest Act, 1927, which defines it as an "offence punishable under this Act or under any rule made thereunder". The Act also defines "forest produce" broadly, to include timber, charcoal, wild animals, and other related items.

### **Key Distinction: Forest Officer vs. Police Officer:**

A crucial point is that a forest officer is **not** a police officer within the meaning of Section 25 of the Indian Evidence Act, 1872. This means a confessional statement made to a forest officer is admissible as evidence in a court of law, which is not the case for confessions made to a police officer. However, under Section 73 of the Indian Forest Act, all forest officers are deemed to be public servants.

### **Code of Civil Procedure 1908-Forest**

The Code of Civil Procedure, 1908 (**CPC**) does not have provisions dealing *specifically* with the Indian Forest Act, 1927. The CPC is a general law that consolidates and amends the laws relating to the procedure of Courts of Civil Judicature. Its application to cases under special statutes like the Forest Act depends on the provisions of the special Act itself.

### **Key interactions and applications:**

- **Procedural framework:** The CPC provides the general procedural framework for civil suits in India, unless its jurisdiction is expressly or impliedly barred by a specific statute.
- **Incorporation by Reference:** The Indian Forest Act, 1927, and various state forest acts, incorporate certain powers and procedures of the CPC for specific purposes.
- **Powers of Civil Court:** Under the Indian Forest Act, officers or authorities (such as a Forest Settlement Officer) conducting inquiries or proceedings are often conferred with specific powers of a Civil Court under the CPC, such as:
  - Summoning and enforcing the attendance of persons and witnesses.
  - Examining them on oath.
  - Requiring the discovery and production of documents and material objects.

**Service of process:** State-level amendments, such as the one in Maharashtra (Bombay Act XXIV of 1955), explicitly require that notices and orders under the Forest Act be served in the manner provided in the CPC for the service of summons.

**Jurisdiction of Civil Courts:** Section 9 of the CPC states that civil courts can try all civil suits unless their cognizance is barred. The Forest Act creates a specific framework for certain matters (e.g., forest settlement officer to decide claims to rights in reserved forests), and in such cases, the jurisdiction of ordinary civil courts might be limited or deferred to the procedures laid down in the Forest Act.

**General applicability:** The general principles of the CPC, such as *res judicata* (Section 11) or the power of transfer of cases (Sections 22-25), may still apply to forest-related cases depending on the nature of the dispute and the forum it is being heard in.

In essence, the CPC does not contain substantive law on forests, but its procedural mechanisms are utilized in the administration and judicial processes under the Indian Forest Act and other special forest legislations.

### **The Indian Penal Code, 1860-**

The Indian Penal Code, 1860 does not directly address forest offenses, which are covered by specific legislation like the Indian Forest Act, 1927. However, the IPC's general provisions on abetment (Sections 107-120) apply to any crime, including forest offenses. This means an individual can be punished for instigating, conspiring with, or intentionally aiding someone who commits a forest offense, even if the act itself is not committed.

### **How the IPC applies to forest offenses**

- **Abetment:** Under the IPC, abetting means instigating, conspiring, or intentionally aiding the commission of an offense.
- **Punishment:** If a forest offense is committed in consequence of abetment, the abettor is punished with the same punishment provided for that forest offense.
- **Specific sections:**
  - **Section 107:** Defines what constitutes abetment.
  - **Section 109:** If the abetted act is committed, the abettor is punished with the same penalty as the principal offender, unless a specific punishment is provided for abetment in the forest law itself.
  - **Section 115:** Deals with abetment of an offense punishable with death or imprisonment for life if the offense is not committed.
  - **Section 116:** Deals with abetment of an offense punishable with imprisonment if the offense is not committed.
  - **Section 117:** Addresses abetting the commission of an offense by the public or by more than ten people.

### **Forest offenses are governed by separate laws**

- **Indian Forest Act, 1927:** This act, and state-specific forest acts like the Orissa Forest Act, 1972, define and punish forest offenses.
- **Examples:** These acts cover acts like felling trees, setting fires, damaging forest produce, or illegally collecting resources from a forest.
- **Penalties:** The Forest Acts specify the penalties for these offenses, which can include fines and imprisonment.

### **Indian Evidence Act, 1872**

The Indian Evidence Act, 1872 applies to forestry by governing how evidence is presented in court, with key principles including the admissibility of confessional statements and the relevance of public records, maps, and expert testimony. For instance, the Act determines if confessions made to Forest Range Officers are admissible as evidence, which is critical for prosecuting forestry and wildlife crimes under other statutes like the Wildlife Protection Act, 1972. The Act also makes public records like government orders and maps relevant for proving facts related to forestry.

### **Admissibility of confessions**

- **Distinction from police officers:** A significant legal point is that the Madras High Court ruled Forest Range Officers are not "police officers" under Section 25 of the Evidence Act.
- **Implication:** This distinction impacts the admissibility of confessions made to them, which could be different from those made to actual police officers.
- **Legal precedent:** This interpretation sets a precedent, requiring careful consideration of the specific statutory powers of forest officers when assessing the validity of evidence.

### **Relevant evidence in forestry cases**

- **Public records:** Statements in public records, charts, maps, and government notifications are often relevant for establishing facts in forestry cases.
- **Expert testimony:** The Act's rules on evidence are what a court uses to evaluate the weight given to expert testimony, such as from a forest officer or wildlife biologist, when proving facts.

### **Other relevant provisions**

- **Relevance:** The Act's sections on the relevancy of facts (Sections 5-55) are the foundation for deciding what can be presented as evidence in court for forestry and wildlife offenses.
- **Documentary evidence:** For cases involving documents like permits or logs, Section 67 of the Act requires that the signature or handwriting be proven to be in the handwriting of the person alleged to have written it.

## **The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006**

The Forest Rights Act, India or the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act is also known by other names like the Tribal Rights Act or the Tribal Land Act. It deals with the rights of the communities that dwell in the forests (including Scheduled Tribes), over land and other resources, which have been denied to them over the years because of the continuation of forest laws from the colonial era in the country.

In December 2006, the Forest Rights Act was passed which accords legal recognition to the rights of traditional forest-dwelling communities and partially corrects the injustice caused by colonial-era forest

laws. The earlier policies and acts – such as previous Forest Acts 1865, 1894, 1927 prevented the local communities from using the resources.

### **Implementation of the Forest Rights Act 2006**

1. Gram Sabha is the authority to initiate a process to vest rights on marginally and tribal communities after assessment of the extent of their needs from forest lands.
2. Gram Sabha after its assessment, receives claims of the communities, consolidates and verify these to help them exercise their rights
3. Gram Sabha then passes such a resolution to sub-divisional level committee (formed by the state governments.)
4. If one or more communities are not satisfied by such a resolution, may file a petition to sub-divisional level committee
5. Sub-Divisional Level committee after its assessment, passes the resolution to Sub-divisional officer to district level committee for its final decision
6. The district-level committee's decisions are considered final and binding
7. A state-level monitoring committee is constituted by the state government to monitor the process of recognition of these rights
8. The officers included in the sub-divisional level committee, district-level committee and state-level monitoring committee include:
  - Officers of Department of Revenue of state government
  - Officers of Department of Forests of state government
  - Officers of Department of Tribal Affairs of state government
  - Three members of Panchayati Raj Institutions including two Scheduled Tribes members and at least one woman

The Act recognizes and vest the forest rights and occupation in Forest land in Forest Dwelling Scheduled Tribes (FDST) and Other Traditional Forest Dwellers (OTFD) who have been residing in such forests for generations.

The Act identifies four types of rights:

- Title rights: It gives FDST and OTFD the right to ownership to land farmed by tribals or forest dwellers subject to a maximum of 4 hectares. Ownership is only for land that is actually being cultivated by the concerned family and no new lands will be granted.
- Use rights: The rights of the dwellers extend to extracting Minor Forest Produce, grazing areas etc.
- Relief and development rights: To rehabilitate in case of illegal eviction or forced displacement and to basic amenities, subject to restrictions for forest protection.

- Forest management rights: It includes the right to protect, regenerate or conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use.

### **Significance of Forest Rights Act (FRA) 2006**

The act is significant for the following reasons:

1. Community rights and rights over common property resources (CPR) have been recognized for the first time
2. Individual rights of the tribal and marginal communities have been highlighted by this act along with other rights too
3. The concept of revenue villages have surfaced as the act talks about the conversion of all forest villages, old habitation, un-surveyed villages and other villages into these.
4. It ensures the livelihood and food security of the Forest Dwellers Scheduled Tribes and Other Forest Dwellers and strengthens the conservation regime of the forest.
5. Community Forest Resources are monitored and managed in a way that protects marginal communities' traditional linkages with these. it is known how these communities have always traditionally utilized the forest resource for sustainable development.
6. This act in a way protects intellectual property rights and the traditional knowledge related to cultural diversity and biodiversity
7. It expands the mandate of the 5th & 6th Schedules of the Constitution that protect the claims of indigenous communities over tracts of land or forests they inhabit.
8. The displaced communities' rights are secured by the forest rights act 2006. The alienation of tribes was one of the factors behind the Naxal movement, which affects states like Chhattisgarh, Odisha and Jharkhand. The Act through identifying IFR and CFR tries to provide inclusion to tribes. Read more about the Status of the Tribal populations in India on the linked page.
9. The rights of marginal and tribal communities over developmental activities are also recognized and secured by FRA 2006
10. Forest rights can also be claimed by any member or community who has for at least three generations (75 years) prior to the 13th day of December, 2005 primarily resided in forest land for bona fide livelihood needs.
11. The act will ensure that people get to manage their forest on their own which will regulate the exploitation of forest resources by officials, improve forest governance and better management of tribal rights.

Land and its management fall under the exclusive legislative and administrative jurisdiction of States as provided under the Constitution of India. The land reforms are monitored by the Ministry of Rural Development (MoRD) and Department of Land Resources (DoLR) which is the nodal Ministry at the Centre.

### **Forest Rights Act (FRA) 2006 Criticism**

The act has been criticized on the following lines:

1. The debate on the issue of the act leading to even more encroachment of already troubled forest lands has started.
2. Though the act tries to focus on the needs of the forest dwellers, it defeats the purpose when the eviction rate of families from these lands increases as their claims on these lands are not accepted by the government.
3. The role of the sub-divisional level committee is always questioned as they have been given the important right to make a decision on the needs and claims of the marginal communities on the piece of forest lands.
4. Issues have arisen from the part of forest departments who have been seen unwilling to give their forest lands. Role of forest department to let the forest dwellers sow in the forest the reap the benefits is criticized as tribes like Baigas have blamed the department to not support their claim over the land.
5. The tribes and communities also lack the capability to prove their occupancy over the forest land and the law turns out to be weak to strengthen their claim.
6. Government's role of allowing commercial plantations in degraded land is also debated and questioned as the degraded land makes 40% of forests.

### **Conclusion**

- Constitutional provisions provide for safeguards against displacement of tribal population because of land acquisitions etc. The Governor of the State(having scheduled areas) is empowered to prohibit or restrict the transfer of land from tribals and regulate the allotment of land to members of the Scheduled Tribes in such cases. Various provisions of rehabilitation and resettlement as per the RFCTLARR Act, 2013 are implemented by the concerned State Governments since land is a State subject. Tribals and Issue of Land Rights is another topic related to the Forest Rights Act.
- "Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013" (**RFCTLARR Act, 2013**) safeguards against displacement of Scheduled Tribes.
- The purpose of this Act is to ensure that a humane, participative, informed and transparent process for land acquisition with the least disturbance to the owners of the land and the other affected

families and provide them with just and fair compensation whose land has been acquired or proposed to be acquired in consultation with institutions of local self-government and Gram Sabhas established under the Constitution.

### Key Terms Related to Forest Rights Act 2006

Term	Meaning
<b>Community Forest Resource</b>	<ul style="list-style-type: none"> <li>• It is a customary common forest land located in a villages’ traditional and customary boundaries</li> <li>• It can also be called seasonal use of landscape in the case of pastoral communities</li> <li>• Example – Reserved Forests, Protected Forests, Protected Areas (Sanctuaries, National Parks)</li> </ul>
<b>Critically Wildlife Habitat</b>	<ul style="list-style-type: none"> <li>• Government of India (Ministry of Environment &amp; forest) notifies such areas as CWH which meets a scientific criteria decided by an expert committee including experts from locality appointed by the government and from that of the Ministry of Tribal Affairs.</li> </ul>
<b>Forest Dwelling Scheduled Tribes</b>	<ul style="list-style-type: none"> <li>• Persons or group of persons who reside in and are dependent on a forest land to meet their livelihood needs</li> </ul>
<b>Forest Villages</b>	<p>Forest Department of State Governments established settlements inside forests for forestry operations.</p> <p>It includes:</p> <ul style="list-style-type: none"> <li>• Forest Settlement Villages</li> <li>• Fixed Demand Holdings</li> <li>• All types of taungya settlements</li> <li>• Lands for cultivation and uses permitted by the government</li> </ul>
<b>Minor Forest Produce (MFP)</b>	<p>An important source of livelihoods for tribal people are non-wood forest products, generally termed ‘Minor Forest Produce (MFP)’ means all non-timber forest produce of plant origin and will include bamboo, canes, fodder, leaves, gums, waxes, dyes, resins and many forms of food including nuts, wild fruits, Honey, Lac, etc.</p>
<b>Other Traditional Forest Dwellers</b>	<p>Member/community prior to 13th December 2005, who resided for at least three years or were dependent on a forest land for their livelihood needs.</p>

## **Biological Diversity Act, 2002**

### **Background**

The Biological Diversity Act, 2002 was born out of India's attempt to realise the objectives enshrined in the United Nations Convention on Biological Diversity (CBD) 1992 which recognizes the sovereign rights of states to use their own Biological Resources.

- **Biodiversity:** The biodiversity means the variability among living organisms from all sources and the ecological complexes of which they are part and includes diversity within species or between species and of ecosystems
- **Biological Resources:** The biological resources means plants, animals and micro-organisms or parts thereof, their genetic material and by-products (excluding value added products) with actual or potential use or value, but does not include human genetic material.

### **The Biological Diversity Act, 2002**

- The act was enacted in 2002, it aims at the conservation of biological resources, managing its sustainable use and enabling fair and equitable sharing benefits arising out of the use and knowledge of biological resources with the local communities.

### **Salient Features of the Act**

- The Act prohibits the following activities without the prior approval from the National Biodiversity Authority:
  - Any person or organisation (either based in India or not) obtaining any biological resource occurring in India for its research or commercial utilisation.
  - The transfer of the results of any research relating to any biological resources occurring in, or obtained from, India.
  - The claim of any intellectual property rights on any invention based on the research made on the biological resources obtained from India.
- The act envisaged a three-tier structure to regulate the access to biological resources:
  - The National Biodiversity Authority (NBA)
  - The State Biodiversity Boards (SBBs)
  - The Biodiversity Management Committees (BMCs) (at local level)
- The Act provides these authorities with special funds and a separate budget in order to carry out any research project dealing with the biological natural resources of the country.
  - It shall supervise any use of biological resources and the sustainable use of them and shall take control over the financial investments and their return and dispose of those capitals as correct.
- Under this act, the Central Government in consultation with the NBA:

- Shall notify threatened species and prohibit or regulate their collection, rehabilitation and conservation
- Designate institutions as repositories for different categories of biological resources
- The act stipulates all offences under it as cognizable and non-bailable.
- Any grievances related to the determination of benefit sharing or order of the National Biodiversity Authority or a State Biodiversity Board under this Act, shall be taken to the National Green Tribunal (NGT).

### **Exemptions from the Act**

- The Act excludes Indian biological resources that are normally traded as commodities.
  - Such exemption holds only so far the biological resources are used as commodities and for no other purpose.
- The act also excludes traditional uses of Indian biological resources and associated knowledge and when they are used in collaborative research projects between Indian and foreign institutions with the approval of the central government.
- Uses by cultivators and breeds, e.g. farmers, livestock keepers and bee keepers and traditional healers e.g. vaid and hakims are also exempted.

### **The National Biodiversity Authority**

- The National Biodiversity Authority (NBA) was established in 2003 by the Central Government to implement India's Biological Diversity Act (2002).
- It is a Statutory body that performs facilitative, regulatory and advisory functions for the Government of India on the issue of Conservation and sustainable use of biological resources.
- The NBA has its Headquarters in Chennai, Tamil Nadu, India.

### **Structure of the NBA**

- The National Biodiversity Authority consists of the following members to be appointed by the central government, namely:
  - **A Chairperson.**
  - **Three ex officio members**, one representing the Ministry dealing with Tribal Affairs and two representing the Ministry dealing with Environment and Forests.
  - **Seven ex-officio members** to represent respectively the Ministries of the Central Government dealing with:
    - Agricultural Research and Education
    - Biotechnology
    - Ocean Development
    - Agriculture and Cooperation

- Indian Systems of Medicine and Homoeopathy
- Science and Technology
- Scientific and Industrial Research;
- **Five non-official members** to be appointed from amongst specialists and scientists having special knowledge and experience in the required matters.

#### **Functions of the NBA**

- Creating an enabling environment, as appropriate, to promote conservation and sustainable use of biodiversity.
- **Advising the central government, regulating activities and issuing guidelines** for access to biological resources and for fair and equitable benefit sharing in accordance with the Biological Diversity Act, 2002.
- Taking necessary **measures to oppose the grant of intellectual property rights** in any country outside India on any biological resource obtained from India or knowledge associated with such biological resources derived from India illegally.
- **Advising the State Governments** in the selection of areas of biodiversity importance to be notified as heritage sites and suggest measures for their management.

#### **State Biodiversity Boards (SBBs)**

- **The SBBs** are established by the State Governments in accordance with **Section 22** of the Act.
- **Structure:** The State Biodiversity Board consists of the following members:
  - **A Chairperson**
  - Not more than **five ex officio members** to represent the concerned Departments of the State Government
  - Not more than **five members from amongst experts** in matters relating to conservation of biological diversity, sustainable use of biological resources and equitable sharing of benefits arising out of the use of biological resources.
  - **All the members of the SBB are appointed by the respective State Governments.**

#### **Functions of SBBs**

- **Advise the State Government**, subject to any guidelines issued by the Central Government, on matters relating to the conservation, sustainable use or sharing equitable benefits.
- **Regulate by granting approvals** or otherwise requests for **commercial utilisation or bio-survey and bio-utilisation** of any biological resource by people.

#### **Biodiversity Management Committees (BMCs)**

- According to **Section 41 of the Act**, every local body shall constitute the BMC within its area for the purpose of promoting conservation, sustainable use and documentation of biological diversity including:
  - Preservation of habitats
  - Conservation of Landraces
  - Folk varieties and cultivars
  - Domesticated stocks And breeds of animals
  - Microorganisms And Chronicling Of Knowledge Relating To Biological Diversity

### **Structure**

- It shall consist of **a chair person and not more than six persons** nominated by the local body.
  - Out of total members of a BMC, not less than one third should be women and not less than 18% should belong to the Scheduled Castes/ Scheduled Tribes.
- The Chairperson of the Biodiversity Management Committee shall be elected from amongst the members of the committee in a meeting to be chaired by the Chairperson of the local body.
- The chairperson of the local body shall have the casting votes in case of a tie.

### **Functions**

- The main function of the BMC is to prepare **People's Biodiversity Register** in consultation with the local people.
- The register shall contain comprehensive information on availability and knowledge of local biological resources, their medicinal or any other use or any other.

### **People's Biodiversity Registers (PBR):**

- The PBRs focus on participatory documentation of local biodiversity, traditional knowledge and practices.
  - The register shall contain comprehensive information on the availability and knowledge of local biological resources, their medicinal or any other use or any other traditional knowledge associated with them.
- They are seen as key legal documents in ascertaining the rights of local people over the biological resources and associated traditional knowledge.

### **Biodiversity Heritage Sites (BHS)**

- Under Section 37 of Biological Diversity Act, 2002 the State Government in consultation with local bodies may notify the areas of biodiversity importance as Biodiversity Heritage Sites.
- The Biodiversity Heritage Sites are the well defined areas that are unique, ecologically fragile ecosystems - terrestrial, coastal and inland waters and, marine having rich biodiversity comprising of any one or more of the following components:

- Richness of wild as well as domesticated species or intra-specific categories
- High endemism
- Presence of rare and threatened species
- Keystone species
- Species of evolutionary significance
- Wild ancestors of domestic/cultivated species or their varieties
- Past preeminence of biological components represented by fossil beds
- Having significant cultural, ethical or aesthetic values; important for the maintenance of cultural diversity (with or without a long history of human association with them)

### **National Green Tribunal Act -2010**

The National Green Tribunal (NGT) was established on 18th October 2010 under the NGT Act of 2010 as a specialized body for handling any environmental disputes that involve multi-disciplinary issues. It was formed by replacing the National Environment Appellate Authority. It also draws inspiration from Article 21 of the Indian Constitution which assures to provide a healthy environment to the citizens of India. The National Green Tribunal has a total of five places of sitting namely: Bhopal, Pune, New Delhi, Kolkata, and Chennai, amongst which, New Delhi is the Principal place of sitting.

### **Objectives of National Green Tribunal (NGT)**

Some of the major objectives of the National Green Tribunal (NGT) are as follows:

- Effective and expeditious disposal of cases that are related to the protection and conservation of the environment, forests, and other natural resources.
- To give relief and compensation for any damages caused to persons and properties.
- To handle various environmental disputes that involve multi-disciplinary issues.

### **Structure of NGT**

The National Green Tribunal (NGT) comprises three major bodies namely:

1. The Chairperson
2. The Judicial Members, and
3. The Expert Members.

Also, there should be a minimum of 10 and a maximum of 20 full-time Judicial as well as Expert members in the NGT.

### **Term of NGT Members**

All these members are required to hold the office for five years and are not eligible for reappointment.

### **Who appoints NGT Chairman?**

The Chairperson of the National Green Tribunal (NGT) is appointed by the Central Government of India in accordance with the Chief Justice of India.

### **Who appoints NGT members?**

A Selection Committee is formed by the central government of India for the appointment of Judicial Members and Expert Members.

### **Powers of NGT**

Over the past few years, the National Green Tribunal (NGT) developed as an important body for regulation of the environment and passing strict orders on issues related to pollution, deforestation, waste management, etc. Some of the major powers of the National Green Tribunal include:

- NGT provides a way for the evolution of environmental jurisprudence through the development of an alternative dispute resolution mechanism.
- It helps in the reduction of the litigation burden on environmental matters in the higher courts.
- NGT provides a faster solution for various environment-related disputes that are less formal and less expensive.
- It curbs environment-damaging activities. NGT ensures the strict observation of the Environment Impact Assessment (EIA) process.
- NGT provides relief and compensation for any damages caused to persons and properties.
- The National Green Tribunal resolves various civil cases under the following seven laws that are related to the environment:
  - Water Act (Prevention and Control of Pollution), 1974
  - Water Cess Act (Prevention and Control of Pollution), 1977
  - Forest Act (Conservation), 1980
  - Air Act (Prevention and Control of Pollution), 1981
  - Environment (Protection) Act, 1986
  - Public Liability Insurance Act, 1991
  - Biological Diversity Act, 2002

**Forest (Conservation) Act, 1980:** It was enacted for preventing and regulating the diversion of forestland for non forestry purposes. After the enactment of this act, prior approval of central govt. is essential for deserving a forest area for non-forestry purposes.(i) Any reserve forest or any portion of forest to be reserved for non-forestry purposes (section2). (II) In this concern ,the govt. may constitute an advisory committee with regard to grant of approval(Section 3)

(1) This Act may be called the Forest (Conservation) Act, 1980.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall be deemed to have come into force on the 25th day of October, 1980.

### **Amendments Made in Forest Conservation Act 1988:**

1. Penalty prescribed for violation of the provision of this act
2. Detailed guidelines given for the diversion of land
3. Rules framed for diversion of land for non forestry purposes
4. For this prior approval from central govt. is necessary

The ministry of Envs. and forest is dealing with this matter in all spheres. Regional, central conservator of forest will process in this line. Central govt. staff can make field inspections. Based on the recommendation, compensatory afforestation measures can be suggested. The prior approval is required for reservation of lands for the following non forestry projects

- a.) Mining
- b.) Raising commercial crops
- c.) Transmission lines
- d.) Hydro electric projects
- e.) Irrigation schemes
- f) Road and railways lines
- g) Pipes and drinking water supply

**Forest Law:** Forest law pertains to forests and all forestry activities such as fellings and removal of forest products. It falls within the category of special laws and includes a set of legislative measures and legal provision concerning forests and the wild animals living in them.

**Scope:** It must include the following aspects

1. Define the limits of forest property so that it is clear as to what is forest, irrespective of whether it is natural or a plantation.
2. Forest must be classified legally into different categories in which various degrees of protection are available.
3. Adequate scope must be provided in the forest law for rights and concessions and how they are to be exercised. Provision may also be made for the suspension of rights and concessions.
4. Suitable provisions may be made for preventing abuses/offences to be committed and to take punitive action when this occurs.
5. Public authorities may be empowered to take suitable action under the forest law for enforcing it.
- 6 Other measures that may be required with regard to the forest law are also incorporated.

**Necessity of special Forest Law:** The necessity for special laws relating to forests has been brought out in the following points.

1. Forests are a part of nature's gift to mankind and as such human beings have taken it to always there. This has led to a misconception that forests can be exploited at will. Special forest laws are needed to dispel these misgivings.
2. Most forests in India are owned by the state and these are burdened with rights and concessions. Uncontrolled exercise of these rights and concessions leads to their depletion. If this continues over a longer period of time, so the forest being damaged permanently.

3. Forests have a large extent and they also may occur in remote and less accessible areas. It is difficult to physically protect the forest and hence the need to have special laws.
4. Forest produce including timber is extremely vulnerable to theft both in the forest and also while in transit. Thus the need for special laws.
5. There may be large extent of private forests for whose management special laws are required so that the interest of the public in general is safeguarded.
6. Forest officers work in remote forest areas are needed to be empowered with special powers to prevent, detect and control forest offences.
7. Wildlife and its protection is a special function for which specific laws are needed.

**International Obligations:** India is party to many international treaties and agreements and has international obligations in the special laws regarding. These includes

1. Convention related to the preservation of Fauna and Flora in their Natural State, 1936.
2. International Convention for the regulating of Whaling, 1946
3. International Plant protection convention, 1951
4. Convention of wetlands of international importance especially as waterfowl habitat, 1971.
5. Convention of International Trade in Endangered species of wild Fauna and Flora, 1973.
6. Convention of conservation of Migratory species of wild Animals 1979.
7. Convention on conservation of Antarctic living marine resources, 1980.
8. International Tropical Timber Agreement, 1983.
9. International Convention on Bio-diversity, 1992.

### **The Environment Protection Act 1986**

The Environment Protection Act 1986 aims to safeguard and enhance the environment. This legislation grants authority to the Central Government to institute bodies tasked with preventing environmental pollution in various forms and addressing region-specific environmental challenges. The Act underwent its last amendment in 1991. The Environment Protection Act 1986, a legislation of the Indian Parliament, was promulgated in May 1986 and took effect on 19 November 1986. Comprising 26 sections across 4 chapters, this Act is often viewed as a reaction to the Bhopal gas leak incident. It was enacted by the Government of India under Article 253 of the Constitution. It authorizes the union government to legislate for the implementation of international agreements.

### **What is Environment Protection Act 1986?**

The Environment Protection Act of 1986 is a crucial piece of legislation enacted by the Government of India. It aims to protect and improve the environment. This Act provides a comprehensive framework to regulate human activities that may have adverse impacts on the environment. It was enacted after the

Bhopal Gas Tragedy to integrate various fragmented chemical and hazardous waste regulations under a unified, more powerful law.

### **Background of the Act**

The Environment Protection Act 1986 has its roots in the 1972 United Nations Conference on the Human Environment held in Stockholm. It prompted countries around the world to adopt measures for environmental protection. Following the Stockholm Declaration, India took several steps to address environmental issues. This ultimately culminated in the enactment of this Act in 1986. The Bhopal Gas Tragedy of 1984 further emphasized the need for stringent environmental regulations. This led to the hurried establishment of this comprehensive law.

### **Objectives of Environment Protection Act 1986**

The objectives of the Environment Protection Act 1986 encapsulate its core purposes aimed at fostering an ecologically sustainable environment in India.

**Protection and Enhancement of Environmental Quality:** The primary aim is to protect and improve the quality of the environment. This includes air, water, and land.

**Regulation of Pollutants:** It seeks to control the discharge of pollutants into the environment and manage hazardous substances.

**Central Coordination:** The Act allows for the central government to coordinate actions of various authorities established under other environmental laws.

**Implementation of International Conventions:** It facilitates the implementation of decisions made at international environmental conferences. It also aligns Indian laws with global standards.

### **Salient Features of Environment Protection Act 1986**

The Environment Protection Act 1986 has several distinctive features that set it apart as a cornerstone of environmental legislation in India.

**Comprehensive Reach:** The Act covers the entire country and all aspects of the environment. It addresses pollution control across air, water, and land.

**Centralized Authority:** It empowers the Central Government to take all necessary measures to prevent and control environmental pollution. This includes setting standards and ensuring compliance.

**Stringent Enforcement:** Provisions for penalties include imprisonment and hefty fines for non-compliance, ensuring robust enforcement.

**Norm-Setting:** The Act enables the Central Government to establish standards for emissions and effluents discharge, and for the handling of hazardous substances.

**Ecological Preservation:** It provides for the protection of ecologically sensitive areas. It prohibits and regulates activities that may harm these regions.

## **Environment Protection Act 1986 Latest Amendments**

Various amendments have been made to the Environment Protection Act 1986. These are aimed at addressing evolving environmental challenges and strengthening its framework.

**Environment (Protection) Rules, 1986:** These rules stipulate standards for emissions and effluents, waste management procedures, and environmental monitoring practices.

**Biomedical Waste (Management and Handling) Rules, 1998:** These rules deal with the segregation, collection, and disposal of biomedical waste in an environmentally safe manner.

**Hazardous Wastes (Management and Handling) Rules, 1989, and their subsequent amendments:** These rules focus on the management of hazardous waste to mitigate adverse environmental and health impacts.

**E-Waste (Management and Handling) Rules, 2011:** These rules aim at robust management and disposal of electronic waste, emphasizing manufacturers' responsibility.

## **Significance of the Environment Protection Act**

The Environment Protection Act 1986 is a significant milestone in the journey of environmental governance in India. The significance of the Act includes:

**Holistic Environmental Framework:** It integrates various environmental regulations. It offers a unified approach to environmental governance.

**Empowerment of Authorities:** The Act vests significant powers in the Central Government to enact measures for controlling pollution and protecting the environment comprehensively.

**Public Awareness and Involvement:** The legislation aims to raise awareness and engage public participation in environmental protection.

**Alignment with Global Standards:** It aligns national environmental policies with international norms and conventions.

**Judicial Support:** The Act has been a foundation for judicial activism in environmental matters. This has resulted in several landmark court rulings that have shaped India's environmental policy landscape.

## **Drawbacks of the Environment Protection Act 1986**

Despite its comprehensive scope, the Environment Protection Act 1986 faces several drawbacks which hinder its effective implementation.

**Enforcement Challenges:** Ineffective enforcement due to limited resources and administrative challenges undermines the Act's effectiveness.

**Limited Public Participation:** There is often insufficient public involvement and transparency in environmental decision-making processes.

**Ambiguous Provisions:** Vague and broad provisions within the Act can lead to varied interpretations and implementation inconsistencies.

**Inadequate Penalties:** The penalties for non-compliance are sometimes seen as insufficient to serve as a robust deterrent.

**Coordination Issues:** Gaps in coordination between central and state authorities can result in fragmented and inconsistent application of environmental laws.

### **Indian Government Initiatives to Protect the Environment**

In addition to the Environment Protection Act 1986, the Indian government has introduced several initiatives aimed at addressing environmental issues more comprehensively.

**National Green Tribunal (NGT):** Established to provide a specialized forum for the expeditious adjudication of environmental disputes.

**Swachh Bharat Abhiyan (Clean India Mission):** A national campaign aimed at promoting cleanliness and sanitation across India.

**Ganga Action Plan and Namami Gange Programme:** Special initiatives focused on cleaning and rejuvenating the Ganges River.

**National Action Plan on Climate Change (NAPCC):** A strategic initiative focusing on sustainable development and climate resilience through eight national missions.

**Plastic Waste Management Rules:** Enacted to manage and reduce the adverse effects of plastic waste on the environment.

### **Conclusion**

The Environment Protection Act 1986 signifies an important stride in India's legislative efforts to safeguard the environment. It provides a broad and detailed framework for environmental governance. However, effective enforcement and public participation are crucial for its success. Addressing the drawbacks such as enforcement weaknesses and enhancing coordination between various stakeholders can significantly boost the Act's impact.

**Rights and Property:** The concept of rights and property and its applicability to India is essential for proper comprehension and application of forest laws.

**Rights:** By **Shetty (1980)** Rights has been defined as the interest recognized and protected by the rule of law.

### **Sources of Rights:**

Rights are born and supported from the following sources

- a. Law of the land
- b.) Legislation
- c.) Precedents
- d.) Customs

**Types of rights:** 1. Legal rights 2. Moral rights

### **1. Legal rights:** This includes

- a. Right of the state to own and protect the trees growing in a forest.
- b. Right of the state to manage and extract produce from the forest.

c. Legal right to prevent encroachments in the forest.

1. **Moral rights:** Moral rights are usually unwritten and include the rights of parents to expect their children to obey them. This right cannot be enforced by law and there can be no punishment for violation of moral rights.

### **Rights and Concessions in forests:**

**History and Background:** Human beings have been using forests and forest products for their benefit since times immemorial. In fact the human race evolved in forests which continued to provide them with the following basic necessities till recent times. a.) Shelter b.) Food c.) clothing in the form of bark and leaves of various species. d.) wood as fuel e.) Small timber f. Medicines and drugs g.) Fodder for domesticated h.) Timber for building huts and boats i.) Other non timber forest based products.

The use of forests was unlimited and taken for granted much as we breathe air from the atmosphere. Over the centuries, the political system changed and rulers claimed ownership of forest lands which had been and were being used by local inhabitants. In most of cases the use of forests by the local people was allowed. In independent India too, rights and concessions in forest areas have been granted to the local population.

**Objects:** Rights and concessions are granted by the state in forest areas to meet the following objects.

1. To meet the genuine demands/requirements of the local/traditional users of the forest.
2. To ensure that the traditional users of forests and the rural poor are not put to any inconvenience.

**Common Forms of rights and concessions:** The common forms of rights and concessions in forest areas are

1. Right of pasture or grazing
2. Rights of grass cutting
3. Rights of removal of leaf litter
4. Rights to lopping trees
5. Rights to wood
6. Rights to collect non-timber forest produce

**Scope and limitations:** Rights and concessions have a wide scope in forest areas all over India. However, certain limitations have to be exercised for the long term well being of the forest, people dependent on them and also for the ecological stability of the region. The bases for limitations on the rights of users are

- a) Conservation and protection of forests for the general well being of the people and for ecological security is paramount over the unlimited exercise of rights and concessions.
- b) Rights are limited to the carrying capacity of the forest.
- c) The owner (state) also has rights to enjoy the produce.
- d) Rights may be limited in the interest of the forest/for ecological reasons.

The following is a brief discussion on the scope/limitations of rights and concessions in forest areas

**1. Rights of pasture/grazing:** Rights of pasture and grazing includes the following aspects

- a. **Number of cattle:** The number of cattle allowed grazing in a forest or pasture is fixed according to the carrying capacity. In carrying capacity with regard to the number of animals with a cow being taken as a standard unit.

The carrying capacity of a well stoked forest or pasture would be higher than other areas.

- b. **Type of cattle:** Type of cattle that graze on an area will also determine the restrictions or limitations to be imposed. The animals which cause most damage to the forest are goat, buffaloes, camels and elephants. On other hand animals like sheep cause less damage to the forest or pasture and thus more numbers may be allowed to graze in comparison to above and other animals.

- c. **Parts of the forest:** Grazing may or may not be allowed in the entire forest area. The following areas should be excluded from grazing irrespective of the existence of rights.

- i. Regeneration and plantation areas
- ii. Areas prone to fire
- iii. Those parts of the forest which are prone to soil erosion

- d. **Grazing season:** Forest may be closed to grazing during a particular season

- i. Fire season
- ii. Rainy season

**2. Grass cutting rights:** Rights of grass cutting are allowed in forest areas and these have to be regulated so that there is no permanent damage to the forest. Various limitations could be imposed are

- a. Discouraging the use of large implements for cutting grass.
- b. Closing regeneration and plantation areas to grass cutting for a period of 5 to 10 years.
- c. Grass cutting may be prohibited in soil erosion areas.

**3. Rights of removal of leaf litter:** In India the local people enjoy rights for the removal of leaf litter from the forest floor. This is used by them in various ways such as for the manure, for spreading under cattle sheds and also for packing their farm produce. Following guidelines

- a. The leaf litter should not be removed from very steep slopes.
- b. Removals may be permitted only in alternate years so that the forest soil is also replenish its nutrients.
- c. As far as possible, leaf litter may be removed only on specific days and under the supervision of the forest department staff.

**4. Lopping rights:** Lopping is done for fodder, manure, fuelwood and small timber. The use of this rights damages the forest and certain restriction have to be placed. These includes

- a. Lopping only the lower one-third of the tree.
- b. Giving rest to the tree from lopping

c. Only the larger trees may be lopped

**5. Rights to timber/wood:** The rights holders may collect/remove timber and wood for the following purposes.

a. For house construction

b. for agricultural implements

c. for fuel

d. for mass festivals and other community functions

**6. Rights to collect non-timber/MFP:** The local population enjoys rights to collect minor forest products and to put them to their own use and also for sale. These include honey, medicines and drugs, food, dyes, seeds, tans, bamboos and canes.

**7. Hunting and fishing rights:** many tribes enjoy hunting and fishing rights in forests. These are not unlimited and are being regulated for the long term ecological security.

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