

SESSION 9
Legal and Policy Frameworks Related to Forest Conservation

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1. Introduction to Conservation Laws and Policies

1.1. Introduction

A forest is a terrestrial ecosystem, a community of plants and animals interacting with one another and with the physical environment. They are natural renewable resources. Depending on the potential of climate and land area, all countries differ in their forest resources.

In recent times, there has been a considerable reduction in the forest cover throughout the world. Today, forests cover only nearly 30 to 40 percent of the world's land.

India is the seventh largest country in the world occupying 2.5 percent of the world area. However, only 1.8 percent of forest covers lies in India. Despite recent efforts to increase forest cover through reforestation, India's forests are in a devastated condition, with less than 18 percent of India under forest cover in 1997.¹ Dense forests cover only 12 percent of land.² The policy requirement is that the forest cover should be 33 percent of the area of the country, and all of this should be closed forest. However, we are far from achieving this figure.

1.2. Importance of Forests

Forests are critical for the quality of global environment. They are of great importance to the sustainability and prosperity of human beings since they yield multiple benefits to society. These include tangible products such as fuel wood, timber, fodder, manure and minor forest products, intangible services such as hydrological benefits, soil conservation, climate change mitigation and habitat for wildlife, and other intangible values such as spiritual or aesthetic values. These benefits flow towards many different beneficiary groups. Only some of these beneficiaries live in physical proximity of the forest. Others live downstream in the watershed, or in the whole region or nation or even world. It is estimated that some 1.6 billion people worldwide depend on forests for their livelihoods. 60 million indigenous people depend on forests for their subsistence.

Forest resources also represent a survival base for as many as 200-300 million small farmers and shifting cultivators around the world. Seasonal harvesting of forest products is of vital importance to most shifting cultivator households

¹ Reply by Union Minister of Environment and Forests to Rajya Sabha, 24 March, 1998.

² State of India's Environment: The Citizen's Fifth Report, Centre for Science and Environment, 1999.

especially during the hungry period between harvests. Some 350 million people that live in or near forests depend on them for income and subsistence. Some additional 1 billion people worldwide, constituting about 20 percent of the global population, depend on varying degrees on forests or agro-forestry farming.

Forests are major stores of carbon and other greenhouse gases such as methane. They play a crucial role in conserving the world's biodiversity. Forests provide habitats for at least two-thirds of the world's species and contain at least 80 percent of the remaining earth's biodiversity.

Forests also play a major role in containing soil erosion and in regulating water supplies. They contribute to reducing sedimentation in dams and reservoirs, to clean rivers and protect fishery resources, to maintaining agricultural productivity. Tree shelterbelts slow wind velocity and lower temperature thus contributing to moisture conservation and agricultural productivity. Trees and forests critically contribute to food security in most of the food-deficient countries of the world.

1.3. Threats

Forests are a precious resource of economic development and environmental stability. However, forests today are under immense threat of deforestation. They are reducing at an alarming rate. This process of deforestation is a serious threat to the economy, quality of life and the future of environment in our country. Some of the major reasons for degradation and decline of forests are:

- Rapid explosion of human and livestock population
- Over utilization of forest resources by local communities
- Conversion of land to non-forestry use
- Expansion of agricultural cropland for farming
- Practice of slash and burn agriculture on invaded lands
- Enhanced grazing by cattle
- Increased demand in fuel-wood, timber, wooden crates, paper, medicines, and other forest dependent products
- Impact of other commercial activity
- Impact of developmental activity
- Impact of chemicals and other hazardous substances
- Illegal forest activities

Illegal forest activities are one of the major contributors of deforestation. Such activities are varied and include, *inter alia*, the unauthorized occupation of public and private lands, illegal logging in protected or environmentally sensitive areas, logging of protected species, poaching, woodland arson, illegal transport of wood

and other forest products, smuggling, transfer pricing and other fraudulent accounting practices, illegal forest industrial processing such as discharging pollutants, etc. Virtually all illegal acts can be associated with corruption. Furthermore, corrupt acts are perpetrated for private gain and are intentional as distinguished from negligent acts, and are surreptitious in nature.

2. Forest Conservation and the Constitutional Mandate

At the time of framing of the Constitution forest was a 'State' subject place under Entry 19, List II of the Seventh Schedule. The forests departments of individual states regulated forests in accordance with the pre-existing Forest Act of 1927, as implemented by state regulations.

However, the Indian Parliament, realizing the national significance of the forests, made certain changes to the Seventh Schedule. In 1976, the Forty-second Amendment Act led to the deletion of Entry 19 from List II of the Schedule. A new entry (Entry 17-A) related to forests was inserted in the Concurrent list or List III of Seventh Schedule. Now, Forestry is a concurrent subject in the Indian Constitution, being under the purview of both the central and state government. Hence, as per the Constitution, both Centre and State may legislate on issues related to forests and protection of wildlife.

The provisions directly related to the conservation of forests were also included in the Constitution of India by the Constitution (Forty-second Amendment) Act, 1976. The Forty-second Amendment introduced a new Directive Principle of State Policy [Article 48-A] under Part IV and a Fundamental Duty [51 (A) (g)] under Part IV A for the protection and improvement of the forests. These provisions provide as under:

1. **Article 48-A – Protection and improvement of environment and safeguarding of forests and wildlife.** The State shall endeavor to protect and improve the environment and to safeguard the forests and wildlife of the country.
2. **Article 51(A) (g) –** It shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wildlife, and to have compassion for living creatures.

3. Forest Conservation and Legislative Action

3.1. Introduction

Even prior to the British era, customary rules have regulated the use of forests in India. Certain types of trees were regarded as sacred and never cut. Certain areas under forest were regarded as God's groves and not even deadwood and leaves were taken out from these areas. Even today, some such areas in their natural condition are found in different parts of the country, though their condition is rapidly worsening.³

The history of modern forest legislation in India is more than a century old. The first codification which came to the statute book in relation to the administration of forest in India was the Indian Forest Act, 1865. It empowered the government to declare any land covered with trees or brushwood as government forest and to make rules to manage them. The act was applicable only to the forests in control of the government and did not cover private forests. It made no provision regarding the rights of the users.⁴

The Act of 1865 was replaced by a more comprehensive Indian Forest Act of 1878. Forests were divided into reserve forests, protected forests and village forests. Several restrictions were imposed upon the people's rights over forest land and produce in the protected and reserved forests. The act empowered the local government to levy duty on timber produced in British India or brought from any place beyond the frontier of British India, thus encouraging them to earn revenue from forests. The Act radically changed the nature of common property and made it state property.

The Act was amended from time to time and was ultimately repealed and replaced by the Indian Forest Act, 1927.

3.2. Current Forest Legislations in India

The important forest legislations in India are:

1. The Indian Forest Act, 1927
2. The Wildlife Protection Act, 1972

³ Mahdhav Gadgil and V.D. Vartak, Sacred Groves in Maharashtra: An Inventory, in S.K. Jain (ed), *Glimpses of Indian Ethnobotany*, Oxford University Press, Bombay, 1981.

⁴ B.H. Baden Powell, *Forest Law*, Bradbury Agnaw and Co., London, 1893, p. 225.

3. The Forest Conservation Act, 1980
4. The Scheduled Tribes and other Traditional Forest Dwellers Act, 2006

- **The Indian Forest Act, 1927**

The Indian Forest Act, 1927 was enacted during pre-independence era with the object to consolidate the law relating to forests, the transit of forest-produce and the duty leviable on timber and other forest-produce. It also sought to consolidate and reserve the areas having forest cover, or significant wildlife.

The Act contains 86 Sections and still remains in force. However, has been subjected to amendments from time to time to make it more in tune with the current situation. The Forests Act establishes three kinds of forests, namely, Reserve forests, Protected forests and Village forests. Reserved forests are the most restrictive category of forests. These forests are constituted by the State Government on any forestland or wasteland which is the property of the government or on which the government has proprietary rights. Protected forests, constituted by the state government, are forests other than reserved forests over which the government has proprietary rights. Village forests, on the other hand, are those in which the state government assigns to “any village-community the rights of government to or over any land which has been constituted a reserved forest”. The categories are explained in detail as follows:

1. **Reserved Forests** – Reserved forest is dealt with in Chapter II of the Act. It is an area or mass of land duly notified under section 20 or under the reservation provisions of the Forest Acts of the State Governments of the Indian Union. It is within power of a State Government to issue a preliminary notification under section 4 of the Act declaring that it has been decided to constitute such land, as specified in a Schedule with details of its location, area and boundary description, into a Reserved Forest.

Such a notification also appoints an officer of the State Government, normally the Deputy Commissioner of the concerned district, as Forest Settlement Officer. The Forest Settlement Officer fixes a period not less than three months, to hear the claims and objections of every person having or claiming any rights over the land which is so notified to be reserved and conducts inquiries into the claims of rights, and may reject or accept the same. He is empowered even to acquire land over which right is claimed. For rights other than that of right of way, right of pasture, right to forest produce, or right to a water course, the Forest Settlement Officer may exclude such land in whole or in part, or come to an agreement with the owner for surrender of his rights, or proceed to acquire such land in the manner prescribed under the Land Acquisition Act, 1894. Once the Forest

Settlement Officer settles all the rights either by admitting them or rejecting them, as per the provisions of the Act, and has heard appeals, if any, and settled the same, all the rights with the said piece of land, with or without alteration or modification of boundaries, vest with the State Government. Thereafter, the State Government issues notification under section 20 of the Indian Forest Act, 1927 declaring that piece of land to be a Reserved Forest.

2. **Village Forests** – Village forest is dealt with in Chapter III of the Act. It is constituted under section 28. The Government may assign to any village community the rights over a land which may be a part of a reserved forest for use of the community. Usually, forested community lands are constituted into Village Grazing Reserve (VGR). Parcels of land so notified are marked on the settlement revenue maps of the villages.

A Village forest is different from a Forest Village. Though many a times both terms are used interchangeably, both are different in their meaning. While village forest is a legal category under the Indian Forest Act forest village is merely an administrative category. Although forest village is recognized as a forest department, the revenue benefits cannot accrue to such villages as they are not technically under the revenue departments.

3. **Protected Forests** – Protected forest is dealt with in Chapter IV of the Act. It is an area or mass of land, which is not a reserved forest, and over which the Government has property rights, declared to be so by a State Government under the provisions of the section 29. It does not require the long and tedious process of settlement, as in case of declaration of a reserved forest. However, if such a declaration infringes upon a person's rights, the Government may cause an inquiry into the same; but pending such inquiries, the declaration cannot abridge or affect such rights of persons or communities. Further, in a protected forest, the Government may issue notifications declaring certain trees to be reserved, or suspend private rights, if any, for a period not exceeding 30 years, or prohibit quarrying, removal of any forest produce, breaking of land, etc.

There is another type of forests known as Non-government Forests. Though this category is not expressly termed as a separate category, it is dealt with in Chapter V of the Act. It covers the forests and land not being in control of the government. The State government can, by notification, regulate or prohibit the breaking up or clearing of land for cultivation, the pasture for cattle or the firing or clearing of vegetation to protect against storms, winds, rolling stones, floods and avalanches, to preserve soil from erosion, to maintain water supply in springs, rivers and tanks,

to protect roads, bridges, railway, lines of communication and to preserve public health.

The State Governments are also empowered under the Act to impose duty on timber and other forest produce as well as control transit of the same. The Act also defines a forest offence and vests power in the State Governments to impose penalties on violation of the provisions of the Act.

- **The Forest Conservation Act, 1980**

In 1980, the Parliament, in response to the rapid decline in the forest covers in India, and also to fulfill the Constitutional obligation under Article 48-A, enacted a new legislation called the Forest Conservation Act, 1980.

Deforestation causes ecological imbalance and leads to environmental deterioration. With a view to check further deforestation, the President promulgated the Forest (Conservation) Ordinance, 1980 on the October 25, 1980. The Ordinance made the prior approval of the Central Government necessary for de-reservation of reserved forest and for use of forest land for non-forest purposes. Ordinance also provided for the constitution of an advisory Committee to advise the Central Government with regard to grant of such approval.

The Ordinance was later on replaced with the enactment of the Forest Conservation Act, 1980 that came into force on October 25, 1980, which is the date on which the Forest Conservation Ordinance was promulgated. The Act too was passed with a view to check deforestation. The basic aim of the Act was to provide for the conservation of forests and for matters connected therewith or ancillary or incidental thereto.

Under the provisions of this Act, prior approval of the Central Government is essential for diversion of forest lands for the non-forestry purposes. In the national interest and in the interest of future generations, this Act, therefore, regulates the diversion of forest lands to non forestry purposes. The basic objective of the Act is, to regulate the indiscriminate diversion of forest lands for non forestry uses and to maintain a logical balance between the developmental needs of the country and the conservation of natural heritage. The, guidelines have been issued under the Act from time to time, to simplify the procedures, to cut down delays and to make the Act more user friendly.

Prior to 1980, the rate of diversion of forest lands for non forestry purposes was about 1.43 lakh hectare per annum. However, with the advent of the Forest (Conservation) Act, 1980, the rate of diversion of forest lands were controlled to a certain extent.

The Act allows the diversion of forest land only for certain purposes such as to meet the developmental needs for drinking water projects, irrigation projects, transmission lines, railway lines, roads, power projects, defense related projects, mining etc. For such diversions of forest lands for non forestry purposes, compensatory afforestation is stipulated and catchment area treatment plan, wildlife habitat improvement plan, rehabilitation plan etc. are implemented, to mitigate the ill effects of diversion of such vast area of green forests.

To monitor the effective implementation of the compensatory afforestation in the country, an authority named as "Compensatory Afforestation Management and Planning Authority (CAMPA)" is being constituted at the national level. A monitoring cell is also being set up in the Ministry of Environment & Forests to monitor the movement of proposals at various stages and the compliance of the conditions stipulated in the forestry clearances by the user agencies.

Clearance from Central Government for de-reservation of Reserve Forests, for use of forestland for non-forest purpose and for assignment of leases has been made mandatory under The Forest Conservation Act, 1980. Under section 2 of the Act, prior approval of Central Government has to be obtained by the State Government or other authority for undertaking any of the above mentioned activities. For this purpose, the proposal has to be sent to the Central Government in the form specified in The Forest Conservation Rules, 1982.

In case the proposal for clearances are rejected, a person aggrieved by an order granting environmental clearance can appeal to National Environmental Appellate Authority set up under National Environmental Appellate Authority Act, 1997 within thirty days from the rejection of the proposal.

- **The Scheduled Tribe and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006**

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 was passed almost unanimously by the Lok Sabha as well as the Rajya Sabha on December 18, 2006.

This legislation, aimed at giving ownership rights over forestland to traditional forest dwellers. The law concerns the rights of forest dwelling communities to land and other resources, denied to them over decades as a result of the continuance of colonial forest laws in India.

A little over one year after it was passed, the Act was notified into force on December 31, 2007. On January 1, 2008, this was followed by the notification of the "Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of

Forest Rights) Rules, 2007" framed by the Ministry of Tribal Affairs to supplement the procedural aspects of the Act.

The Ministry of Tribal Affairs was established as an independent ministry in 1999 to deal specifically with scheduled tribes. The criteria for designating a tribe as "scheduled" include having 'primitive' traits, dwelling in geographical isolation, having a distinct culture, being shy of contact with the outside world and being economically 'backward'. There are more than 600 officially listed scheduled tribes in the country, comprising less than 10% of the country's total population and with little over 2% believed to be dwelling in forests.

The list of rights as provided under the Act includes:

- Right to live in the forest under the individual or common occupation for habitation or for self-cultivation for livelihood
- Right to access, use or dispose of minor forest produce
- Rights of entitlement such as grazing and traditional seasonal resource access
- Rights for conversion of leases or grants issued by any local authority or any state government on forest lands to titles
- Right to protect, regenerate or conserve or manage any community forest resource which the scheduled tribes and other traditional forest dwellers have been traditionally protecting and conserving

The Act grants four types of rights. Section 3(1) of the Act grants **Title rights**, that is, ownership to land that is being farmed by tribals or forest dwellers as on December 13, 2005, subject to a maximum of 4 hectares. Ownership is only for land that is actually being cultivated by the concerned family as on that date, meaning that no new lands are granted. Section 3 (1) also grants **Use rights** over minor forest produce, including the ownership, to grazing areas, to pastoralist routes, etc.

Relief and development rights are granted under Sections 3 (1) and 3 (2) of the Act. It includes the right to rehabilitation in case of illegal eviction or forced displacement and to basic amenities, subject to restrictions for forest protection. **Forest management rights** are granted under Section 3 (1) and Section 5 of the Act with the view to protect forests and wildlife.

➤ **Opposition to the Act**

The Act is one of the most controversial and strongly opposed legislations right from the very beginning. Since the bill was drafted and introduced in the parliament, it has generated a lot of debate. It is perhaps the first and only Act in

the history of India to have been opposed through a TV campaign. In October 2003, Vanshakti, an group based in Mumbai, ran TV advertisements against the Act.⁵

The Act was vehemently opposed by the wildlife conservation lobby and the Ministry of Environment and Forests who termed it as the ideal recipe to ensure the destruction of India's forests and wildlife by "legalizing encroachments". The forest department, together with the timber mafia, too had been blocking it, since it would severely erode their stranglehold over forest products. Corporates are also against it, since the illegal status of tribals and other forest dwellers makes the process of eviction and land acquisition for industrial projects easier.⁶

Some of this opposition has been motivated by those who see the law as a land distribution scheme that will lead to the handing over of forests to tribals and forest dwellers. However, the strongest opposition to the Act has come from wildlife conservationists who fear that the law will make it impossible to create "inviolable spaces", or areas free of human presence, for the purposes of wildlife conservation. Tiger conservation in particular has been an object of concern.⁷

Parliamentarians supporting the Act have been accused by some as pursuing vote-bank politics to appease tribals. There is a view that the Act itself is capable of providing the basis for the extension of the rights to other forest dwellers.

On the other hand, the supporters of the Act argue that it is large developmental projects, such as large dams, power plants and mining activities, etc., that need to be checked, rather than the forceful eviction of traditional forest-dependent communities to save the forests. Several groups contend that it is not tribals who are bringing in commercial activities into forests, but external commercial pressures that are degrading the forest resources and thereby eroding the traditional lifestyles of tribal communities. Meanwhile the more radical green groups warn against the land mafia misusing the provisions of the proposed law into conning unsuspecting tribals vested with land rights to part with their land in prime forest areas. They also fear that the proposed legal provision allowing for the "sale of forest-based products for their household needs", would translate into large-scale commercialization of forest resources.

However, supporters of the Act take the position that the Act is not a land distribution measure, and further that the Act is more transparent than existing law

⁵ Sethi, Nitin, *Activists come out with Ads to Slam Forest Act*, Times of India, October 23, 2007.

⁶ Krishnan, Radhika, *Forest Rights Act, 2006 – Misplaced Euphoria*, Liberation, January 2007.

⁷ Thapar, Valmik, *Conflict will go up by 10000 percent*, Daily News and Analysis, December 23, 2007.

and so can help stop land grabbing. Regarding wildlife conservation, they have argued that the Act actually provides a clear and explicit procedure for resettling people where necessary for wildlife protection, but also provides safeguards to prevent this being done arbitrarily.

Supporters of the Act and others also argue that the provisions in the Act for community conservation will in fact strengthen forest protection in the country. This is said to be because it will provide a legal right for communities themselves to protect the forest, as thousands of villages are already doing in the face of official opposition.

4. The Policies governing Forests

4.1. Introduction

India is one of the first countries in the world to have stated scientific management of its forests. During the year 1864 the then British India Government started the Imperial Forest Department. The first Inspector General of Forests was Dr. Dietrich Brandis, a German Forest officer who was appointed in 1866. In 1907, the Imperial Forest Service was constituted to organize the affairs of the Imperial Forest Department. In addition, Provincial Forest Service and Executive & Subordinate Services were also constituted for effective management of forest resources the British India Government. Initially, the subject of "Forestry" which was managed by the Federal Government which was later transferred to the "Provincial List" by the Government of India Act, 1935 and subsequently recruitment to the Imperial Forest Service was discontinued.

The Indian Forest Service was constituted in the year 1966 under the All India Services Act, 1951 by the Government of India. The main mandate of the service is the implementation of the National Forest Policies. Since 1935 the management of the forests remained in the hands of the Provincial Governments in pre-independence era, and even today the Forest Departments are managing the forests of the country under the respective State governments.

Systematic management of forests began in the mid-nineteenth century. The first forest policy of India enunciated in 1894 focused on commercial exploitation of timber and gave importance to permanent cultivation. The 1952 revision of the policy recognized the protective role of forests and proposed that one-third of the land area of the country be retained under forest and tree cover. The Forest policy of 1988 focused on environmental stability and maintenance of ecological balance.

4.2. International Conventions and Initiatives signed by India pertaining to Forests

India has participated in international dialogues on forests. The important international conventions concerning forests to which India is a signatory are:

1. International Convention for Regulation of Whaling – Signed in 1946
2. Convention for Protection of World Cultural and Natural Heritage – Signed in 1972
3. Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES) - Signed 1973, Ratified 1976
4. Convention on Wetlands of International Importance especially as Waterfowl Habitat, Ramsar – Signed in 1971

5. Convention on Conservation of Migratory Species of Animals, Bonn, 1979
6. United Nations Convention on Laws of the Sea (UNCLOS) – Signed in 1982, Ratified in 1995
7. United Nations Framework Convention on Climate Change (UNFCCC) – Signed in 1992, Ratified in 1993
8. Convention on Biological Diversity (CBD) – Signed in 1992, Ratified in 1994
9. United Nations Convention to Combat Desertification (UNCCD) – Signed in 1994, Ratified in 1996

The provisions on trade and environment measures by the World Trade Organization (WTO) Agreement significantly affect the forestry sector. Moreover, Chapter XI of Agenda 21 and the non-binding Forestry Principles also contain provisions for protection and improvement of forests. Agenda 21 recognizes the need for specific actions to combat deforestation. Chapter 11 of the document identifies four programme areas for action.

4.3. National Forest Policies

Since independence, there have been three forest policy pronouncements in India. They are listed as follows:

1. National Forest policy, 1952
2. The National Commission on Agriculture, 1972
3. National Forest Policy, 1988

The first National Forest Policy Resolution was adopted by the government in 1952. Though the resolution highlighted the ecological and social aspects of forest management, giving secondary importance to the needs of commerce, industry and revenue, it did not call for any change in the forest law and remained only a pious declaration.

The Ministry of Forest was originally a part of the Ministry of Agriculture. In 1972, the Ministry appointed a National Commission on Agriculture. The multi-volume Report of the National Commission on Agriculture, published in 1976, covered forests in the 9th Part.⁸ The commission recommended that the revised national forest policy should be based on important needs of the country. All forest lands should be classified into protection forests, production forests and social forests. It gave the highest priority to production forests and the lowest priority to

⁸ Report of the National Commission on Agriculture, Part IX, Forestry, Ministry of Agriculture, Government of India, New Delhi, 1976.

social forests. The object of forest management should be that ‘each hectare of forest land should be in a position to yield a net income of many more times than is being obtained at present.’ It recommended enactment of a revised all India forest act.⁹

However, in 1985, the Forest Department was shifted from the Ministry of Agriculture to the Ministry of Environment and Forests (MoEF). The MoEF was established as a nodal agency for planning, coordination and implementation of environmental and forestry programmes. This helped to shift the emphasis from revenue to environmental concerns. In December 1988, the Parliament passed a new forest policy resolution more or less rejecting the recommendations of the National Commission on Agriculture. The resolution stressed the welfare of forest dwelling communities as a major objective of the forest policy, and categorically stated that the life of tribals and other poor living within and near forests revolves around forests and that the rights and the 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. However, while the resolution adopted a pro-tribal policy, the old Act of 1927 with all the subsequent amendments remained unchanged.

The National Forestry Action Programme (NFAP) was initiated in 1999. It is a comprehensive long-term strategic plan for the next 20 years. It identifies the issues and programs for achieving sustainable forestry development in India by harmonizing the activities of different stakeholders. The NFAP evolved through coordinated centre-state strategic planning with inputs from many national and international consultants. It identifies five programs:

- (1) Protect existing forest resources
- (2) Improve forest productivity
- (3) Reduce total demand,
- (4) Strengthen the policy and institutional framework and
- (5) Expand the forest area.

➤ **Current National Forest Policy – National Forest Policy, 1988**

The National Forest Policy, 1988, is the primary policy statement related to forestry reflecting the ethical standards on the natural environment enshrined in the constitution. Forestry and the environment interface with many other sectors, which affect the forest and wildlife resources. The principal aim of the policy is to ensure environmental stability and maintenance of ecological balance including atmospheric stability, which is vital for sustenance of all life forms, human, animal and plant. It unambiguously states that the derivation of direct economic benefit

⁹ Kulkarni, Sharad, *The Plight of Tribal*,

must be subordinated to this principal aim, and that conservation includes preservation, maintenance, sustainable utilization, restoration and enhancement of the natural environment.

The main objectives of the National Forest Policy, 1998 are as follows:

- 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.
- 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.
- 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.
- Checking the extension of sand-dunes in the desert areas of Rajasthan and along the coastal tracts.
- Increasing substantially the forest/tree cover in the country through massive afforestation and social forestry programmes, especially on all denuded, degraded and unproductive lands.
- Meeting the requirements of fuel-wood, fodder, minor forest produce and small timber of the rural and tribal populations.
- Increasing the productivity of forests to meet essential national needs.
- Encouraging efficient utilisation of forest produce and maximising substitution of wood.
- Creating a massive people's movement with the involvement of women, for achieving these objectives and to minimise pressure on existing forests.

Creating a massive people's movement including the involvement of women and indigenous people for forest conservation is an integral feature of the policy. The policy underscores the full protection of customary rights and concessions of tribal communities and other rural poor living within and near forests. It recognizes their requirements for fuel wood, fodder, construction timber, etc. The basic objectives and strategies defined in the policy are still relevant, and guide forest conservation in India.

The National Forest Policy advocates the use of miscellaneous policy instruments including legislation and regulation, voluntary agreements, fiscal incentives, research and educational and extension campaigns for the conservation and sustainable development of forests. The administrative framework of the forestry sector has changed significantly from regulatory to participatory. The legal framework of the forestry sector can be classified into three categories:

1. The first set of Acts regulates access and use of forest products such as the Indian Forest Act (1927).
2. The second set focuses on conservation such as the Wildlife Act (1972) and the Forest Conservation Act (1980).
3. The third set comprises enabling laws that encourage private investment as well as restrictive laws with regard to land ceilings, tree felling, transit passes and marketing that have discouraged the private sector from engaging in farm forestry and agro-forestry.

5. Forest Management and Social Forestry

5.1. Introduction

Balancing the effective, sustainable management of forest resources with economic, social and environmental factors has emerged as one of the key challenges in natural resource management. The environment and fora in which decisions concerning natural resource management are made are evolving as a result of global trends such as the globalization of the economy; growing awareness of and response to environmental concerns; decentralization and devolution of government control; the need for secured property rights; and increasing pressure for democratization.

Among the responses to these trends is a greater willingness to consider local forest management as a viable alternative to centralized State control. Throughout the world, a large number of forestry activities (national, multilateral, bilateral and non-governmental) with participatory, local or community forestry components are being implemented. Although much remains to be done, participatory approaches are increasingly recognized as essential to sustainable forest management.

The term 'Social Forestry' first used in the National Commission on Agriculture in its report in 1976. Social forestry aimed at raising plantations by the common man so as to meet the growing demand for timber, fuel wood, fodder, etc., thereby reducing the pressure on the traditional forest area. This concept of village forests was developed to meet the needs of the rural people. However, this concept is not new as it has existed through the centuries all over the country.

Social Forestry is an umbrella term for farm forestry where the whole village or community are engaged in communal village planting. It basically includes the participatory forest management methodologies where the forest department sponsors plantations on variety of wastelands and provides technical assistance, subsidies, etc to the local communities who manage such forestry activities on those unproductive and fallow grounds that may be government or community lands.

The social forestry was introduced in late 1970s and early 1980s. With the introduction of Social Forestry, it was the first time in India that the rights of the local communities to forest resources were formally recognized. It was aimed at encouraging rural participation in the management of natural resources as well as to involve them in a drive towards afforestation.

Social forestry, however, was a mixed blessing. It had certain implimental shortcomings. Some villagers perceived the woodlots to be sources of communal incomes rather than sources of fuelwood to meet village needs. *Panchayats* could not impose the discipline required to manage the plantations as the Forest Department extension staff primarily interacted only with the *Panchayat Pradhans* (heads), making little effort to involve local community as a whole. There was also no continuity of management and control of numerous scattered pieces of planted village lands. Moreover, the shares that would go to the forest department, *panchayat*, village, individuals, etc. was not clearly laid down. All these factors with a combination of other practical problems led to the decline of popularity of this concept in the mid-1980s.

However, with the dwindling of Social Forestry, new concepts began to emerge for the efficient management of the forests.

5.2. Participatory Forest Management

Since the eighteenth century forests have been savagely degraded through commercial exploitation during colonization and post-independence felling for supportive infrastructure for national growth. The colonial and post colonial state's custodianship and policing of forests has vitiated human-nature interactions.

In response to this crisis various strategies for ecological restoration have emerged in independent India, some exclusively among community groups, others that involve community groups and state agencies in collaboration. Participatory Forest Management (PFM) has emerged as result of the failure of colonial and post colonial system of governance to conserve the forests.

PFM is a term widely used when describing the forest management systems that are collaborative in nature, involving local community groups and state forest departments, as well as other agencies. Involving local communities is a vital step since the primary stakeholders in a forest are the communities that directly depend on it for their subsistence.

5.3. Joint Forest Management

Joint Forest Management (JFM) is the official term for partnerships in forest management involving both the state forest departments and local communities. JFM was a scheme launched by the Government in 1990 by way of a circular. The scheme provided for an 'arrangement' between the village community, the NGO's and the state government for regeneration and maintenance of forest areas. The policies and objectives of Joint Forest Management are detailed in the Indian

comprehensive National Forest Policy of 1988 and the Joint Forest Management Guidelines of 1990.

Although schemes vary from state to state and are known by different names in different Indian languages, usually in a JFM, the villagers agree to assist in the safeguarding of forest resources through protection from fire, grazing, and illegal harvesting in exchange for which they receive non-timber forest products and a share of the revenue from the sale of timber products of the forest. The committee representing the village or local community is most commonly referred to as the Forest Protection Committee (FPC). In some states, *panchayats* can also enter into a JFM agreement with the Forest Department. Under the JFM, an FPC takes the responsibility for protecting a forest area in return of greater access to forest produce and a share in income earned from that forest area.

Some states have provided a statutory backing to the scheme by amending the provisions relating to village forests under their respective Forests Acts. The novel idea behind the scheme was to involve people in the development and protection of forests and to motivate forest communities to identify themselves with the development and protection of forests from which they derive benefits. JFM aims at involving people in resource generation activities through motivation, and eliciting their participation in forest management and the sharing of benefits through adequate institutional arrangements.

JFM programme in the present form can be traced to the Arabari experiment initiated by foresters in the state of West Bengal. This experiment provided a strong feedback for incorporation of the system in the National Forest Policy of 1988. In many locations people's voluntary groups were engaged in protection of forests without any initiative from the Government. Subsequently, based on the experience, the process of institutionalizing people's participation in forest protection and regeneration began.

➤ **Issues related to JFM**

Following the launch of the JFM programme in India in the last decade, several issues of importance have emerged, like the diversity in institutional and benefit-sharing arrangements, development of technology and silvicultural practices to increase the productivity of degraded forests, etc.

While the scheme is revolutionary, many NGOs facilitating the same have gained an insight into the institutional arrangements, productivity, silviculture, benefit sharing, marketing, etc. NGOs have gained considerable knowledge on the strengths, unique features, weakness, and ambiguities in the manner in which the programme has evolved in different states. Some of these issues are:

- **Fund Allocation** - Most state orders and resolutions have not spelt out provisions for flow of funds for the JFM programme. Budgetary allocations for JFM-related activities by the Forest are lacking. Consequently the JFM programme relies heavily on foreign aid in the form of World Bank funds, etc. which is important but needs to be balanced against long-term sustainability needs. There is lack of coordination and inter-sectoral or interdepartmental linkage is quite poor. Joint departmental implementation is also virtually a missing feature.
- **Gender involvement in JFM institutions** - Field studies suggest that women's participation in JFM-related activities is by and large inadequate. As a first step JFM resolutions of many states need to be altered to ensure women's participation.
- **Institutional and benefit sharing** - Following the June 1990 resolution of the Government of India, the JFM programme was formally introduced in the country, which involved village communities and NGOs in the regeneration, management, and protection of degraded forests. The development of JFM institutions became imperative and various state governments have also provided in their resolutions, the modalities of forest protection, benefit-sharing arrangements, and membership norms. However, to what extent have these arrangements been implemented, is a different question altogether.
- **Legal and statutory provisions** – There is a morass of resolutions, laws, policies, Acts, etc., many of which are conflicting, ambiguous and contradict each other, and lack legal validity or can be superseded on the basis of legal technicalities, are an implementation hurdle.
- **Limited Awareness** - Awareness of the programme and its ramifications should be created through regular discussions and meetings with the people, putting up notice boards in the regional language, or by describing the terms of the JFM agreement and entitlements. Similarly, the schedule of rates for wages should be circulated amongst members and displayed on notice boards. Their involvement in preparing micro-plans and annual work plans would be crucial to villagers being more aware on activities/interventions planned, likely benefits, scope for their participation, etc. this however, is not being done to make the scheme effective.
- **Membership norms, rules and composition of the JFM committees** - Membership composition, rules, and norms as stipulated in the government orders vary across the country. This diversity of resolution structures is important and symbolizes the attempt of each state to keep these in consonance with local needs, socio-cultural situations and the nature of the forest resource base. Nonetheless, certain uniform norms need to emerge which ensure equity, participation of the landless, the marginalized, and

women to ensure people's needs are met, while the integrity of the forest cover is maintained and improved.

- **Microplan** - Many current provisions in the government orders have also created legally ambiguous situations with respect to microplans. Some like Madhya Pradesh even have provisions whereby the microplan would supersede any existing Working Plan for the allocated JFM area. This stipulation has several legal ramifications since currently under a Supreme Court ruling; no forest area can be worked unless it is covered by a working plan duly approved by the Government of India. The Forest (Conservation) Act, 1980, additionally states that all proposals involving clearing of naturally grown trees in forest land or portion thereof, for the purpose of using it for reforestation, can only be sent in the form of a Working Plan / Management Plan. Provisions for forestry operations therefore, cannot take place at the behest of a micro-plan.
- **Role of the Forest Department in the institutional structure** - While JFM has helped bring the people and Forest Department together, several committees are seen to be heavily dependent upon the Forest Department for their day-to-day functioning, convening meetings, record maintenance, preparation of plans, etc. Forest Department officials are also member secretaries of village committees in many states. With powers to disband a badly functioning committee, cancel membership, and nominate NGOs for membership, the relationship is unequal. An important requirement of the JFM institutional design is therefore, making executive/ management committees more accountable and which would take care of record maintenance and day-to-day functioning.
- **Status of JFM committees** - The legal status of JFM committees, the powers they possess to carry out their daily patrolling activities for sharing benefits and, for taking recourse to legal action to protect their own interests, are crucial issues. Field visits have indicated that when the members of protection committees sought to fine offenders, found illicitly felling wood in contravention of rules, they were often challenged and threatened with legal action. In practice, however, it was found that many JFM Committees function by imposing such fines which act as a deterrent to forest violators while the Indian Forest Act, 1927 does not recognize these functions of the Committees.
- **Village funds** - Village funds, with a proportion of revenue derived from the sale of forest produce; to be utilized for forest or village development activities is neither mandatory nor binding on the people or the Forest Department. The current sources include voluntary contributions, money obtained in lieu of protection, membership fees, voluntary labor contributions, the sale of surplus forest produce and of timber harvests, fines generated through social fencing activities, revenue generated against the use of the committee's forests, etc. While community funds need to be

encouraged and diversified, other interventions for promoting greater self-sufficiency at the village level needs to be implemented.

5.4. Community Forest Management

The ever expanding human and livestock populations and large-scale poverty exert unrelenting pressure on forests. In view of the severe degradation of India's forest resources, the Government has attempted to cut down losses to its forests and increase tree cover through Community Forest Management (CFM). This attempt is to further decentralize the management of forests, moving from conventional "State-controlled forest management" to "decentralized community forest management".

CFM refers to processes that enable those people who have a direct stake in forest resources to be part of decision-making in all aspects of forest management, from managing resources to formulating and implementing institutional frameworks. CFM is a component of participatory forestry that focuses on local communities as key stakeholders in managing common property resources.

CFM involves the raising of trees on community land and not on private land. The programme aims to provide for the entire community and not for any individual. The government has the responsibility of providing seedlings, fertilizer but the community has to take responsibility of protecting the trees.

The community institution is created to manage the forests in a sustainable way. It is through the community institution that individual forest users are reached. Its principal function is to provide an institutional framework, which can articulate and represent the interests of all user sub-groups of a forest area in partnership agreement with the Forest Department. The community institution that comes into play in CFM is the Gram Sabha which is the local body that is given usufruct rights over timber, fuel wood, fodder and bamboo produced from the forest area developed, managed and protected by the community.

Under the CFM Scheme, some communities managed the plantations sensibly and in a sustainable manner in order to utilise optimum benefits in a positive way. However, some others took advantage of the common land which was easy to exploit and sold the timber for a short-term individual profit.

6. Panchayati Raj and Panchayat Extension to Scheduled Areas Act, 1996

6.1. Introduction

Panchayati Raj Institutions have been in existence since a long time. The philosophy of Panchayat Raj is deeply steeped in tradition and culture of rural India. It provides a system of self-governance at the village level; however, till the early 90s it did not have a constitutional status. The Constitution (Seventy-third Amendment) Act, 1992 provides a framework on which to build the third level of governance panchayats.

The Constitution (Seventy-third Amendment) Act, 1992 mandates provisions for:

- Establishment of a three-tier structure (Village Panchayat, Panchayat Samiti or intermediate level Panchayat and Zilla Parishad or district level Panchayat).
- Establishment of Gram Sabhas at the village level.
- Regular elections to Panchayats every five years.
- Proportionate seat reservation for SCs/STs.
- Reservation of not less than 1/3 seats for women.
- Constitution of State Finance Commissions to recommend measures to improve the finances of Panchayats.
- Constitution of State Election Commission.

The said amendment also vests power in the State Government to endow Panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-government such as:

- Preparation of plans and their execution for economic development and social justice in relation to 29 subjects listed in the XI schedule of the Constitution.
- Authority to Panchayat to levy, collect and appropriate taxes, duties, tolls and fees.
- Transfer of taxes, duties, tolls and fees collected by the States to Panchayats.

➤ Gram Sabha

Gram Sabha is a body consisting of persons registered in the electoral rolls of a village or a group of villages which elect a Panchayat. A vibrant and enlightened Gram Sabha is central to the success of the Panchayati Raj system.

The year 1999-2000 was declared as the "Year of the Gram Sabha". State Governments were urged:

- To vest in the Gram Sabha, powers on the lines envisaged in the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996.
- To make a mandatory provision in the Panchayati Raj Act for holding Gram Sabha meetings throughout the country on the occasion of the Republic Day, Labour Day, Independence Day and Gandhi Jayanti.
- To make a mandatory provision in the Panchayati Raj Act specifying separately, the quorum for Gram Sabha meetings, for ordinary meetings, meetings convened for special purposes and re-convened meetings due to cancellation of an earlier meeting for want of quorum.
- To make members of the Gram Sabhas aware of their powers and responsibilities with a view to ensuring mass participation, particularly of the hitherto marginalised, groups, such as women and SCs/STs.
- To lay down procedures for the Gram Sabha to effectively carry out social audit of beneficiary oriented development programmes of the Ministry or Rural Development, particularly the legal powers of the Gram Sabha to order recovery or punishment for financial mismanagement.
- To evolve a plan of action for generating wide publicity for Gram Sabha meetings.
- To evolve guidelines/procedures for holding Gram Sabha meetings and a model list of business for such meetings.
- To generate awareness as to the rights of the Gram Sabha with respect to control over natural resources, land records and conflict resolution.

The Constitution (Seventy-third Amendment) Act, 1992 envisages empowered Panchayats as institutions of self-government at the village level capable of:

- Planning and executing village level public works and their maintenance.
- Ensuring welfare of the people at the village level including health, education, communal harmony, social justice particularly gender and caste based discrimination, dispute resolution, welfare of children, especially the girl child.

The amendment also envisages empowered Gram Sabhas as the Parliament of the People at the grassroots level to whom the Gram Panchayats are solely accountable

6.2. Panchayat Extension to Scheduled Areas Act, 1996

Panchayat Extension to Scheduled Areas Act (PESA) was passed in the year 1996. It was passed with a view to provide for the extension of the provisions of Part IX of the Constitution relating to the Panchayats to the Scheduled Areas.

This Act gave the tribal communities and tribal gram sabha the power to oversee development within their jurisdiction and to act as a watchdog over possible government projects. Not only were the tribal gram sabhas given the power to preserve the local culture and traditions but they were also granted the power to prevent land alienation. They were also granted ownership over certain natural resources such as minor water bodies and forest produce. Hence, under the Act, every Gram Sabha became the owner of natural resources. There could be no acquisition of land for development projects and for resettling or rehabilitating persons affected by such projects without prior consultation of the Parishad.

➤ Problems in Implementation of PESA

The basic premises of the provisions of the PESA were to facilitate participative democracy in tribal areas by empowering Gram Sabha, restore the power to community to manage natural resources including land, water, forest and minerals and evolve an effective deliver-N, system for development in the Scheduled Areas. The State Governments followed the suit by amending their Panchayats Acts. However, the amendments made by the States carried only the letter of the Central Act, not its spirit. For instance, the intent of the Central Act was to make Gram Sabha in Scheduled Areas a living organization wielding full powers to manage the affairs of the community within its territorial jurisdiction. But several States diluted the intent of the Act by assigning more powers to the Gram Panchayat over the Gram Sabha. Even in some matters the States completely overlooked the authority of the Gram Sabha.

It was also noted that 'in the absence of proper definition of certain subjects, the state governments though followed the provisions of the Central Act; it was without defining the subject suitably. For instance following the provisions of the Central Act, the State Governments entrusted to Panchayats at the appropriate level the responsibilities relating to planning and management of minor water bodies In the Scheduled Areas but did not define the term minor water bodies.

The State governments also do not appear to have clear idea about the term 'local self-government'. To what extent the Panchayats in Scheduled Areas are to be given administrative and financial autonomy need to be clarified to the States.

7. Defining the term 'Forests'

The Oxford English Dictionary defines forests as, 'An extensive tract of land covered with trees and undergrowth, sometimes intermingled with pasture; historically, an area, typically owned by the sovereign ... and having its own laws'. The Encyclopedia Britannica considers a forest to be a, 'Complex ecological system, in which trees are the dominant life form'. A more ecological definition can be seen in Wikipedia.org that states, 'A forest is an area with a high density of trees. These plant communities cover large areas of the globe and function as carbon dioxide sinks, animal habitats, hydrologic flow modulators, and soil conservers, constituting one of the most important aspects of the Earth's biosphere'.

However, no specific definition of the term 'Forest' has been provided in any of the legislations. The definition that exists is the one pronounced by the Supreme Court in the case of *T.N. Godavarman Thirumulpad v Union of India*, (Writ Petition No.202 of 1995) commonly known as Godavarman case, wherein the court expanded the definition of "forests" to include not only forests as mentioned in government record but all areas that are forests as per the dictionary meaning of the term irrespective of the nature of ownership and classification thereof.

Prior to the order pronounced by the Supreme Court in the Godavarman Case, the word 'forest' was limited only to government declared forests irrespective of whether it had tree cover or not. Likewise, areas with significant tree cover were not regarded as 'forest' simply because in government records it was not declared as 'forest'. Due to this, large areas under good forest cover were outside the purview of the Forest (Conservation) Act, 1980. The court's clarification expanded statutory recognition to forests irrespective of nature of ownership and classification. This implies that forests could be designated as reserved and protected whether they are privately owned or otherwise under the Forest (Conservation) Act, section 2(1).

The question being debated in the case was the scope of the Forest Conservation Act 1980 (FCA). This Act, which itself is a watershed in forest governance in the country, requires that any conversion of forest land to non-forest uses (which are defined in the Act) must be approved by the central government (i.e., MoEF). Conventionally, in the application of this act, "forest land" was assumed to be only that land which has been legally notified as forest as per the Indian Forest Act or state forest Acts, i.e., typically Reserve or Protected Forest. Even this narrow interpretation of the Act had slowed down and often halted certain kinds of forest land conversions that state governments seemed to have mindlessly engaged in during the 1960s and 1970s. However the Godavarman case highlighted the fact that significant tracts of lands that were physically forested

had, due to some quirk of history or anomaly of administration, not been notified as Reserved Forests or Protected Forests and hence were denied the “protection” of the FCA. The Supreme Court, in its landmark order of December 12, 1996, sought to rectify this anomaly by stating that the FCA applied to “all areas that are forests in the dictionary meaning of the term irrespective of the nature of ownership and classification thereof”.

This order was pronounced to further the spirit of the FCA. There certainly are significant areas of (currently or till recently) forested lands whose legal status for some reason was not that of Reserved Forest, Protected Forest or Village forest. However, some experts have urged the order flawed and inadequate in law since it attempts to move away the definition of forest land from a ‘legal forest’ to a ‘physical forest’ by replacing a due process with a single universal definition.¹⁰

The need to evolve a definition of the word ‘Forest’ thus received an unprecedented attention after the Supreme Court of India referred to the term Forest in its various pronouncements.

On February 7, 2006, the MoEF of the government of India invited “expressions of interest” for a study to establish the definition of “forests”. It was recommended that a holistic definition of the term forest must be evolved.

The MoEF awarded a consultancy to Ashoka Trust for Research in Ecology and the Environment (ATREE) with the objective of evolving the definition(s) of forest in an Indian context keeping international commitments and different orders of the apex court of the country into consideration. An allied objective was to develop ecologically sound and socially desirable definition of forest. The consultant (ATREE) in turn began widespread consultations from February 2007 for the purpose of developing a sound and appropriate definition to the term ‘Forest’.

The project team at ATREE prepared a draft document on “Definition of the Forest an Indian Context”. This draft document was presented and discussed in a meeting on April 30 - May 1, 2007. This meeting was an important step in the process of finalizing the recommendations of the study undertaken by ATREE.

An array of forest officials along with Non Governmental Organizations (NGOs) attended the two days meeting. The meeting discussed history of forests in India, the forests of India, the valuation of forests, various National Forest Policies and definition of forests under various forest Acts and forest policies, as well as the international conventions and treaties. All these efforts were aimed to evolve a Definition of Forest.

¹⁰ Lele, Sharachchandra, A ‘Defining’ Moment for Forests, Economic and political Weekly, June 23, 2003.

ATREE proposed to define a forest as “An area under Government control notified or recorded as forests under any Act for the conservation and management of ecological and biological resources.”

Explanation: Such forests will include areas with trees, scrubland, grasslands, wetlands, water bodies, deserts, glaciers, geomorphic features or any other area that is necessary to maintain ecological security.

On the basis of consultation made with different stakeholders throughout the country, the possible options for the definition of Forests were derived as under:

Option-1

“An area under Government control notified or recorded as forests under any Act for the conservation and management of ecological and biological resources.”

Explanation: Such forests will include areas with trees, scrubland, grasslands, wetlands, water bodies, deserts, glaciers, geomorphic features or any other area that is necessary to maintain ecological security.

Option -2

“An area owned by Government and notified as forest under any act or recorded as a forest in any Government record functioning as ecological, biological, livelihood-support and/or social resource”

Explanation: such forests will include areas having trees, scrub, grasslands, wetlands, water bodies, deserts, glaciers, geomorphic features or any other area fulfilling the functions of a forest.

Option-3

“An area notified as forests in any Act or recorded as forests in any Government record functioning as ecological, biological ,social resource or livelihood support system. “

Explanation: (1) such forests will include areas having trees, scrub, grassland, wetland, water bodies, deserts, geomorphic features or any other that is necessary for ecological security of the nation.

(2) This will also include areas recorded as jungle such as Jhupudi Jungal, Doli Land etc and unclassified state forests, community owned or privately owned lands.

However, these definitions exclude areas that may not have trees but are part of the forest system, man-made plantations, and tree crops on private and community-owned land. It also does away with the broad classification of forests as understood by the dictionary meaning. There are certain other shortcomings in this definition. For example riverbeds are presently included in the forest areas and thus covered under the forest Act. But they will be open for exploitation if as explained by ATREE. Similarly there may be certain areas that are snow bound. With the melting of snows, they act as catchment areas. But this snow bound area again fall outside the purview of the definition of forests. Then there are rocky areas that have their own set of vegetations. It may be in the form of lichens or others and they too stand excluded from the proposed definition of forests.

Ecologists weigh the unscientific use of the term against their wish to ensure forest conservation by whatever means possible. Social activists warn that sweeping definitions will antagonize local communities. Foresters seem to be interested in ensuring that their domain does not shrink. Other ministries probably want definitions that will enable easy setting up of development projects like dams and roads. The corporate sector would like definitions that will make the leasing-in of state land for commercial forestry free of legal hassles. In this situation, it may be worth asking whether the issue itself has really been tackled from the right perspective, or is it a case of missing the woods for the trees! (Sharachchandra Lele: *A 'Defining' Moment for Forests*).