

# Forest Encroachment and Its Impact Through the Legal Lens

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**Abstract-** Both the central and the state government is responsible for the encroachment on forest land and resources. The policies and legislations should be well monitored at grassroot level. The Government has produced various Action Plans and National level policies to mitigate this problem. This Article delves into the major impacts of forest encroachment like Bio diversity loss, Environmental degradation and livelihoods of forest dependent people. It discusses the legislations related to these impacts and the policies and steps taken by the Government to mitigate them.

**Keywords:** Forest Encroachment, Biological Diversity, Environmental Degradation, Loss of Livelihood, Forest Dependent People.

## 1. INTRODUCTION

The prevention of encroachment of forestland is the responsibility of the state or the Union Territory under whose jurisdiction the forest lies. The provisions pertaining to such responsibilities are mentioned in various enactments, rules, regulations etc of both Central and state government.<sup>1</sup> According to the recent India State of Forest Report, 2023, there has been increase in Forest Cover by 156.41km as compared to the previous report of 2021. The overall forest and tree cover in the country has increased by 1445.81km.<sup>2</sup>

<sup>1</sup>Encroachment on Forestland. (2011, November 28). <https://www.pib.gov.in/newsite/PrintRelease.aspx?relid=77764>

<sup>2</sup> Ministry of Environment, Forest and Climate Change, Government of India. (2023). *India State of Forest Report* (Vol. No. I). Forest Survey of India. <https://fsi.nic.in/forest-report-2023>

<sup>3</sup> Augustin, S., Cackowski- Campbell J.M. (2011, March). *Landscape Architecture Magazine*, 101(3), 128. <https://www.jstor.org/stable/44795512>

Due to developmental activities the nearby forests may get affected and therefore protection of these natural systems is vital for socio-economic and ecological balance of the environment.<sup>3</sup> Forest encroachment has multi-dimensional impacts which may be discussed below from a legal perspective.

## 2 LOSS OF BIODIVERSITY

The protected forest or protected areas are the pillars to preserve bio-diversity. Ecological balance and biological diversity are the main elements of an ecosystem. These areas are the last known places left on this earth where a rich bio-diversity exists.<sup>4</sup> In order to conserve bio diversity the Government of India has designated various areas as ‘protected areas’ under the Wildlife (Protection) Act of 1972. These areas were declared as protected to curb human interference and exploitation of forest resources. It includes National Parks, Wildlife Sanctuaries, Community Reserves or conservation reserves.<sup>5</sup> Many species enlisted in the IUCN as endangered are found in these protected areas. The Greater One Horned Rhinoceros found in Kaziranga National Park has been taken off the list of Red list and put into Endangered list through the efforts of the authority.<sup>6</sup> Currently, Indian Government

<sup>4</sup> Woodley, S. (2015). Managing Protected Areas for Biological Diversity and Ecological Functions. in G. L. Worboys, M. Lockwood, A. Kothari, S. Feary and I. Pulsford (eds) *Protected Area Governance and Management*, pp. 651–684, ANU Press, Canberra.

<sup>5</sup> Wildlife (Protection) Act, 1972, Act No. 53, §2(24A) (India).

<sup>6</sup> 2008 IUCN Red list surprise: Greater One Horned Rhino ‘not’ endangered. (n.d.). <https://www.wti.org.in/news/2008-iucn-red-list-surprise-greater-one-horned-rhinos-not-endangered/>

recognises only tiger and elephant corridors because these species are important for the overall conservation of a habitat. The other marine and aerial species related corridors are not recognised as they are not defined and therefore do not get the same importance as other species on land.<sup>7</sup> The Ministry of Environment, Forest and Climate Change while inaugurating the Global Wildlife Programme released the National Wildlife Action Plan 2017-2031. The Plan has 5 components circling around the themes of sustainable development along with genetic diversity. Some of the components are management of wildlife habitats in an integrated manner, management of Aquatic diversity in India for adaptation to climate change, promotion of eco-tourism, promotion of wildlife research, developing policies for utilisation human resource effectively in conservation process, formulation of plans and policies for wildlife conservation etc.<sup>8</sup>

A well-managed protected area is very important and advantageous for the conservation of biodiversity because law and policy frameworks are involved in the protection process. Also, there are institutional governance involved in the conservation of these areas which makes conservation of biodiversity easier than other areas which does not come under the definition of 'protected areas'.<sup>9</sup>

### 3 ENVIRONMENTAL DEGRADATION

Deforestation is caused primarily due to logging, forest fires, clearing of land for agriculture, mining, excessive use of forest produce, development of infrastructure has led to environmental degradation

and climate change.<sup>10</sup> According to the World Wildlife Organisation the world has lost around 16.6 million acres of rainforest in the tropics in 2024. The organisation cites deforestation as the primary cause for disappearance of Tropical Rain Forest in the world.<sup>11</sup> In India the Government has formulated legislations like the Forest Conservation Act of 1980, Indian Forest Act of 1927, Environment (Protection) Act of 1986 and other state level legislations to curb these forest degradation effects. In an article by The Hindu over 13000 sq. km. of forest cover in India are facing encroachment with Madhya Pradesh leading the list.<sup>12</sup> The forest laws in India have been protected and interpreted by Supreme Court through various litigation tools like Public Interest Litigation. In various land marks cases the judiciary has interpreted the articles of the Constitution of India to include provisions related to protection of environment and forest.<sup>13</sup> The National Green Tribunal was established in 2010 under the National Green Tribunal Act of 2010 with an attempt to provide speedy delivery of justice in matters relating to forest legal rights and environmental protection. It thereby provides relief to damage of property and determination of compensation thereof for such incidents.<sup>14</sup> Thus, both the executive and the judiciary have tried their best to protect forest cover from degradation by human interference and climate change.

### 4 SOCIO ECONOMIC IMPACT ON THE LIVES OF FOREST DEPENDENT PEOPLE

The forest has for thousands of years provided the people dependent on it with livelihood and shelter.

<sup>7</sup> Kilikar, D. (2014, April). [Explainer] What are Wildlife Corridors? <https://india.mongabay.com/2024/04/explainer-what-are-wildlife-corridors/>

<sup>8</sup> Discuss Law on Wildlife with Scientific Outlook. (2017, October 2). <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1504555>

<sup>9</sup> Stolton, S., Dudley, N., Avcıoğlu Çokçalışkan, B., Hunter, D., Ivanić, K.-Z., Kanga, E., Kettunen, M., Kumagai, Y., Macted, N., Senior, J., Wong, M., Keenleyside, K., Mulrooney, D., Waithaka, J. (2015) 'Values and benefits of protected areas', in G. L. Worboys, M. Lockwood, A. Kothari, S. Feary and I. Pulsford (eds) Protected Area Governance and Management, pp. 145–168, ANU Press, Canberra, Australia.

<sup>10</sup> Deforestation and Forest Degradation: The Causes, Effects and Solutions. (2025, April).

<https://www.nrdc.org/stories/deforestation-forest-degradation-causes-effects-solutions>.

<sup>11</sup> Overview. (n.d.). <https://www.worldwildlife.org/threats/deforestation-and-forest-degradation>

<sup>12</sup> Forest Areas Encroached in 25 States, Union Territories; MP, Assam Worst Affected: Government Report. (2025, April 01). The Hindu, <https://www.thehindu.com/sci-tech/energy-and-environment/forest-areas-encroached-in-25-states-union-territories-mp-assam-worst-affected-government-report/article69399037.ece>

<sup>13</sup> Sharma, M. (2023, November). Deforestation and Judicial Intervention in India. *Integrated Journal for Research in Art and Humanism*, 3(6), 76-81, <https://ijrah.com/index.php/ijrah/article/view/368>.

<sup>14</sup> National Green Tribunal. (n.d.). <https://www.greentribunal.gov.in/about-us>.

These forest dependent tribes have worshipped the forest, animals and rivers as deities and has preserved the forest as a sacred grove. These sacred groves to date provide with a rich bio diversity and is home to many threatened and endangered species.<sup>15</sup> In order to protect the rights of the forest dependent tribes the Government legislated the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. This Act aims at preserving and recognising their indigenous rights over use of forestland and forest produce. The Act also acknowledged the injustice done to them during British Colonial Period while recording forest areas.<sup>16</sup> The sacred groves of Mawphlang, Meghalaya is an epitome of the centuries old Khasi traditions and rituals which are intertwined deeply with the forest. This deep dark forest is home to various species of mushrooms and rare medicinal plants. These sacred groves have gained popularity due to eco-tourism and its message to the world about conservation of forest.<sup>17</sup> After independence, initially the government followed the British model of conservation in which the state could exploit the forest for commercial purpose and revenue. This model excluded the tribe's dependent on the forest for their livelihood and made them hostile towards the Forest Management Authorities.<sup>18</sup> The Forest Dwellers had to be relocated away from these protected areas to prevent human animal conflict and forest encroachment. Eventually from the 1980s there came a shift and the local forest dwellers were given some access to the forest that they were dependent. Joint Forest Management was formed under the National Forest Policy of 1988 wherein the local communities were given benefits and access to forest produce for their participation in the conservation of forests.<sup>19</sup> Thus, the rights of these forests' tribes started

re formulating and gradually was recognised in the 2006 Act. The Act talks about in situ rehabilitation and alternative land to the forest people illegally evicted before 13/12/2005 without receiving any entitlement or rehabilitation.<sup>20</sup>

## 5 CONCLUSION

These are some of the impacts and consequences of forest encroachment that have been broadly described. Biological diversity loss, environmental degradation and Socio-economic impact on the lives of the forest dwelling tribes are the major areas that needs to be explored further. Various technological advancement like satellite imaging, GIS Mapping, use of artificial intelligence etc. can enhance the measures taken for prevention of forest encroachment and management. The government has already developed e- green watch, PARIVESH and Van Agni Geo-Portal. These online platforms provide information to various stakeholders regarding wildlife, forest, environment and coastal clearance zones.<sup>21</sup> The judiciary has also taken up pro active role against forest encroachment. Recently, the supreme court in a case had directed the revenue department to take back land given to private entities for non -forest activities and in case the land cannot be transferred back to the authorities such land holders were directed to pay compensation in the interest of the public. All states and Union Territories were asked to constitute Special Team to look after the transfer of land within one year period.<sup>22</sup>

<sup>15</sup> Kothari, A., Pathak, N., Bose, A. (2011, January 1). Forest Rights and Conservation: FRA Act, 2006 India. *Critical Review of Forest Related Regulatory Initiatives: Applying a Rights Perspective*, 19-50, <https://www.jstor.org/stable/resrep00846.7>

<sup>16</sup> Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

<sup>17</sup> Mawphlang Sacred Groves. (n.d.). <https://www.meghalayatourism.in/destinations/mawphlang-sacred-groves/>

<sup>18</sup> Kothari, A., Pathak, N., Bose, A. (2011, January 1). Forest Rights and Conservation: FRA Act, 2006 India. *Critical Review of Forest Related Regulatory Initiatives: Applying a Rights Perspective*, 19-50, <https://www.jstor.org/stable/resrep00846.7>

<sup>19</sup> Ibid.

<sup>20</sup> Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, Act. No.2, § 3(m) (India).

<sup>21</sup> Geographic Information Systems. (2022, December 8). <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1881757>

<sup>22</sup> Rajagopala, K. (2025, May 18). Supreme Court directs States, Union Territories to Reclaim Reserved Forests allotted to Private Parties. *The Hindu*, <https://www.thehindu.com/sci-tech/energy-and-environment/supreme-court-directs-states-union-territories-to-reclaim-reserved-forests-allotted-to-private-parties/article69591047.ece>.