
Forest Policy in India: Changing Perspectives

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Abstract

Historically, forests in India during the pre-British period were managed by communities living in and around the forests and by people dependent on them for their sustenance and livelihood. During British rule, the needs and greed of the Empire dictated the management of forests. The objectives and strategies of the forest department all were geared towards a single goal: the augmentation of revenue generated by the British Empire. A systematic inventory of trees was carried out, customary rights of people over forest land and produce curtailed and were transformed into concessions to be enjoyed at the will of forest officials. Neither the forest dwellers nor their issues such as their livelihood concerns, protection and conservation of forests, etc. were of any concern to the British Empire. Later in the Post British India forest governance was divided into 3 distinct phases. In the first phase the focus of the new Indian government was on revenue generation from forests that would aid the process of development and industrialization in the country. In the second phase conservation of forests was given importance and also the rights of the forest dwellers were recognized to some extent, though not fully granted at the ground level. The third phase witnessed the first paradigm shift towards recognition of rights of forest-dwelling and forest-dependent communities on forests. Here a legal mandate has been created that favors recognition and verification of the right of the tribals and the forest dwellers over the forest land they had been living on for generations. Thus, there is a dire need to strike a fine balance between our wildlife, forests and indigenous people; since none can be sacrificed for the other. They all have to co-exist and flourish.

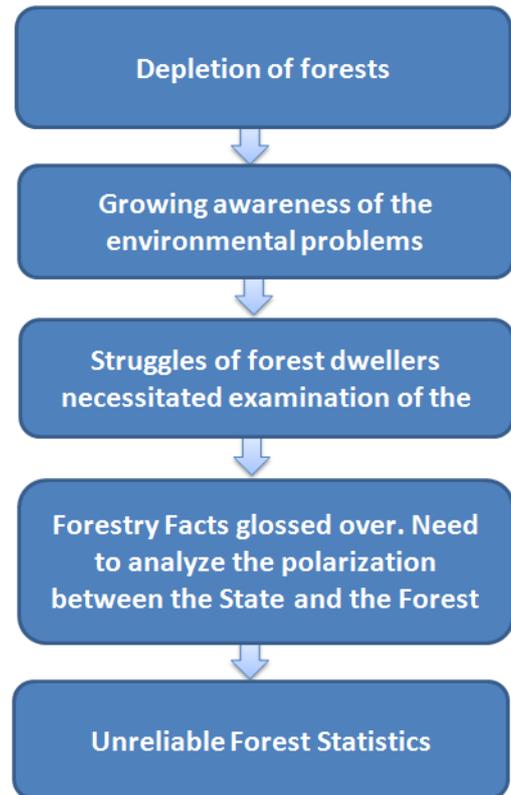
Keywords: Tribals, Forest Rights Act, Revenue generation, Conservation, Ministry of Tribal Affairs.

I. Introduction

Forest policy and management has been a subject of considerable debate and conflict ever since the British established a Forest Department and enacted legislations related to forestry in the 19th century. The imperial needs dictated British interest in the Indian forest resources, which resulted in the establishment of control over forest resources. In the process, at least two crucial aspects of forest management were ignored. First, the well-established traditional systems of conservation and sustainable use, and second, the critical ecological and social role that forests played (Ashish Kothari 1994). The colonial system of forest management was continued even after 1947 with little modification, emphasizing revenue generation and commercial exploitation, while its policing orientation excluded villagers who had the most longstanding claim on forest resources.

Fig1. Factors Making Forest Policy Analysis Inevitable

Tribals were especially confronted with the vagaries of forest management that continuously eroded their life-styles and the simultaneous assertion of State primacy over natural resources deprived them of an important means of subsistence (Guha 1983). A look at the changing forest national policies makes it evident that the approach of forest management has undergone tremendous change since the days of the princely states and colonial India, from top- down to bottom-up state controlled forest management to governance through network in the form of Joint Forest Management (JFM). The current paper describes the forest policy environment that India has at present and how it has evolved over a period of time, from forest practices during ancient times, to policies in the pre British era, from British Colonial rule to the current democratic set up. Also the paper lays down how the initial beneficiaries and care takers of forests, the tribals, have been systematically dispossessed of their very means of existence and how State control over forests increased with the passage of time. Keeping in view the growing awareness about the environmental problems facing the country, especially the depletion of the forests an analysis



Source : Authors own Creation

of the forest policies that govern the management of forests becomes necessary. In the current paper the controversy about the draft Forest Act, 1980, and the struggles of the forest dwellers, form the basis of examination of the forest policies followed by successive governments. The historical evolution of forestry in India reflects the ongoing conflicts and tensions between contending social groups, and their differing access to resources and levers of power. Many relevant aspects of Indian Forestry have been glossed over. There has been growing polarization between the state machinery and forest dwellers that the current paper would discuss along with the other aspects of forest policy in India.

- II. **Forest Governance in India before British Invasion:** An attempt has been made below to illustrate through few examples how forests were managed and conserved before the British invasion of India.
 - ❖ **Ancient texts on Forests:** Ancient texts clearly indicate that not only were forests revered by the people in those days but worshipping of plants and trees formed a part of a large number of religious ceremonies. According to The Agni Purana, to get material benefits and blessings, man should protect trees. Tree plantation was preached by the ancient rulers (Fernandes, et.al., 1985; Gadgil, 1985).
 - ❖ **Gautam Buddha** came up with the idea of every individual planting a tree every five years. Sacred groves were marked around the temples where certain rules and regulations applied.
 - ❖ **Chandra Gupta Maurya** in around 300BC, when he came to power realized the importance of forests and thus, immediately appointed an officer to take care of them.

- ❖ **Emperor Ashoka** launched tree plantation programmes on a large scale as he believed in the preservation and protection of wild animals and forests.
- ❖ **The Gupta period** continued with the same rules for protection and preservation of forests and wildlife as their predecessors (Raghavaiyangar, 1893).
- ❖ **Impact of the Muslim Invasion:** During the Muslim invasions a large number of people took refuge in the forests after fleeing from the attacks of the invaders. The phase of migration to forests began with these invasions. Vast areas of forests were cleared to make way for settlements. Also because of their love for hunting the Muslim invaders needed patches of forests to pursue the same. Thus they ensured that trees in these areas were not felled, and the forest ecology was not tampered with. Gardens and their development was something that the Mughal showed interest in. Akbar ordered the planting of trees in various parts of his kingdom. Jahangir was well known for laying out beautiful gardens and planting trees (Encyclopedia Britannica).

A. Forests and Forest Policies in the Pre-British Period

Time Period	Events, Legislations and the changes that followed
Ancient Texts on Forests	<ul style="list-style-type: none"> • Forests revered by the people. • A large number of ceremonies involved worshipping plants and trees (Fernandes, et.al., 1985). • According to the <i>Agni Purana</i>: To get material benefits and blessings man should protect trees. • Tree plantation was preached by: <i>Gautam Buddha, Chandra Gupta Maurya, Emperor Ashok</i>, etc. (Buchanan, 1807; Martin, 1838; Dutt, 1989; Raghavaiyangar, 1893).
Muslim Invasion	<ul style="list-style-type: none"> • People sought refuge in forests from the attacks of the invaders. • A phase of migration to forests began during these invasions. • Vast forest areas cleared to make way for settlements. • Muslim invaders maintained forests as forests provided grounds for hunting animals. • The <i>Mughals</i> showed keen interest in Gardens and their development.. • Akbar and Jahangir are well known for laying out beautiful gardens and planting trees.
Pre British Period	<ul style="list-style-type: none"> • India's History reveals India was once covered by dense forests (Kumar, V.M. Ravi, 2011) . • Growth and change in civilizations led to a change in the forest composition. • Man's progress and increased dependence on forests led to the depletion of forests. • Village communities enjoyed unrestricted use of forests and forest wastes (Taylor 1990). • The peasants paid a certain tribute to the Feudal Authority, thus, maintained equilibrium in the society. • Extensive Freedom enjoyed by the community. • Forests Prime source of fodder (Fernandes, et.al., 1985).

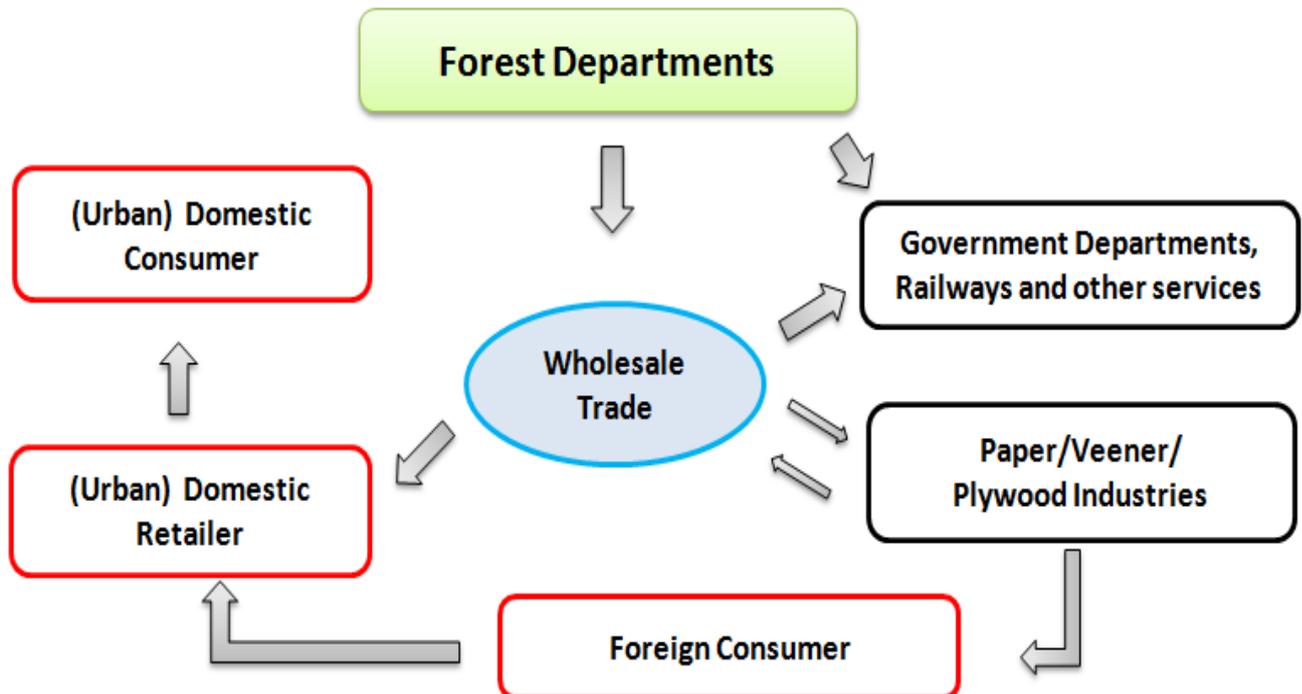
III. Forest Governance before Independence- Different phases: Forests in India have always acquired a special place in its culture. Since a long time, the communities residing in the forests have been known to worship trees as their protector and nurturer. However with more and more development initiatives, deforestation and degradation of forests have become significant issues that the country is facing in the current times (Munshi, Indira, EPW). Historically nature has always been regarded as a nurturer of mankind whose services were taken as given and for granted. Consequently it made its place in mythologies and epics. An important point to remember in this context is that even today the livelihood activities of the tribals' centres around these forests (Prasad, S., 2011). As man's understanding of nature's services has grown, it has been slowly recognized that there is a limit to which the ecosystem can bear the exponential growth of man's needs. Other than spiritual, it is important that man puts an ecological and economic value to its services and functions (TEEB Interim report 2008). Thus, forests in India during the pre-British period were managed by communities living in and around the forests and by people dependent on them for their sustenance and livelihood. It was not a free-for-all, open-access system; social institutions like caste and cultural traditions regulated the extraction of produce from the forest (Gamble, 1902).

1. Early British Rule: During the early part of the British rule trees were for the very first time ever cut without any consideration. There was a total indifference to the need of forest conservancy and a fierce onslaught on Indian forests was witnessed (Bhattacharya, 1995).

B. Forests and Forest Policy during Early British Rule

Time Period	Events/ Legislations and the Changes that followed
Early British Rule	<ul style="list-style-type: none"> • Trees were for the very first time ever cut without any consideration. • A total indifference to the need of forest conservancy. • A fierce onslaught on Indian forests was witnessed (Sagreya, 1979). • Introduction of colonial forestry, not because of superior forestry knowledge and management but owing to the dominant military need and power. • Sal, Teak, Sandalwood and the like were cut down and then exported (Smythies, 1925). • Gradual appropriation of forest resources for revenue generation. • To ensure that the sole user of the forests was the British Government, trees were not allowed be felled without prior permission and knowledge of the authority. • Then the British began to regulate and conserve forests. • In 1800, a commissioner was appointed to look into the availability of teak in the Malabar forests. • In 1806, the Madras government appointed Capt. Watson as the commissioner of forests for organizing the production of teak and other timber suitable for the building of ships (Cleghom, 1860; Guha, 1983). • Teak plantations were raised in the <i>Malabar</i> hills and acacia and eucalyptus in the <i>Niligiri</i> Hills (Kumar, V.M. Ravi, 2011).

Fig2. Use of Forests in India during the British Rule



Source: Adapted from Ramachandra Guha, *Economic and Political Weekly*, Vol. 18, Oct. 29, 1983

2. During and Towards the end of British Rule

C. Forests and Forest Policy during the British Rule

Time Period	Events/ Legislations and the Changes that followed
Charter of 1855 : Precursor to the first forest management legislation	<ul style="list-style-type: none"> • The management of forests was dictated by the needs and greed of the Empire. • Teak Timber was made the State property and its trade was strictly regulated. • Dietrich Brandis, appointed the first inspector general of forests in 1856. He was a German Botanist. • He organized the forest department and enacted the first Forest Act. • He classified and made an inventory of trees in India (Rangarajan, 1992).
The Indian Forest Act, 1865	<ul style="list-style-type: none"> • The first forest legislation ever. • This Act gave the Government all the rights to appropriate any land piece that was covered with trees. • Individuals and communities lacked awareness about their rights. Also they hesitated in getting their rights recognized and acknowledged.
The Indian Forest Act 1878	<ul style="list-style-type: none"> • Legislation to provide the State with a strict control over the forest resources. • It was distinctly 'annexationist' in nature. • Centuries-old system of rights and privileges for forest-inhabiting and

	<p>forest-dependent communities was terminated (Mohapatra, 1997).</p> <ul style="list-style-type: none"> • This Act radically changed the nature of common property and made it State property (Vaidya, A., 2011). • Rights earlier enjoyed by people were now considered as concessions. • The Act categorized forests as: Reserved, Protected and Village forests. • - Commercially valuable forests, amenable to sustained exploitation, were put under the category of reserved forests and were controlled fully by the State. • These steps were illegal but the villagers were unaware and illiterate to even understand and recognize the fact that the forests they once freely used were now being taken over by the State under the name of demarcation. • - Even protected forests were State Controlled though some concessions were granted in this category. When demand for protected forests products rose these were converted into the reserved category, as per the convenience of the State. • Another provision made to keep villagers away from commercially viable reserved and protected forests (Gadgil <i>et al</i>, 1993; Gadgil and Guha, 1992). • People were disenfranchised from accessing their traditional forests and no alternative was provided to them. • Mapping of forests introduced for their scientific management. • The main motive was to obtain sustainable yields from the forests (Poffenberger, <i>et al</i>, 1998).
<p>British India's 1st Forest Policy</p>	<ul style="list-style-type: none"> • 1st Forest Policy passed through a resolution on October 19, 1894 by the British Indian Government. • Emphasis on State control over forests and their exploitation for augmenting State Revenue. • All the forest management strategies, principles of scientific management and forest department were formed keeping in mind revenue generation as the prime motive. • Hence, the issues of the local villagers and the conservation and protection of forests took a back seat. • In Bombay (now Mumbai), the conservator of forests introduced rules prohibiting shifting cultivation and plantation of teak forests. • From 1865 to 1894, forest reserves were established to secure material for imperial needs(Gadgil and Guha, 1992). • From the 18th century, scientific forest management systems were employed to regenerate and harvest forests to make them sustainable.

To sum it up during the British rule, there came up a forest department that carried out a systematic inventory of forests, curtailed the customary rights of the locals over forest land and produce and transformed these into concessions to be enjoyed at the will of forest officials. For the British government forests had become a major source of revenue (Guha, 1983).

IV. Forest Governance in Independent India

1. In the initial phase the explicit idea was to ensure that forests be made to work to generate revenue which, in turn, would support development and the country's industrialization. Inspection of any government policy document of the time makes this amply clear (Gadgil and Guha,1992) .
- Gadgil and Guha are absolutely right when they argue that in post-Independence India, 'the demands of the commercial-industrial sector have replaced strategic imperial needs as the cornerstone of forest policy and management'.

D. Forests and Forest Policy in Independent India

Time Period	Events/Legislations and the Changes that followed
The Indian Forest Act of 1927	<ul style="list-style-type: none"> • It included a duty on timber. • This provision is still in practice with some alterations. • The revenue yielding aspect of forests was the central idea behind the legislations and amendments.
Time period between 1926 and 1947	<ul style="list-style-type: none"> • During this time afforestation was carried out on a large scale in Punjab and Uttar Pradesh. • In the early 1930s, people began showing interest in the conservation of wild life. • World War I saw severe depletion of forest resources as large quantities of timber were removed to build ships and railway sleepers and to pay for Britain's war efforts. • Advancements in scientific management of forests were made. • Nothing done for the protection and regeneration of forests. • Emphasis on gaining maximum revenue from forests. • World War II made even greater demand on the forests than World War I had done.
Post British Rule	<ul style="list-style-type: none"> • A great upheaval in forestry organization occurred. • Princely states were managed variably, giving more concessions to the local populations. • Transfer of states to the government led to deforestation. • From the literature available it is evident that a lot of forest had existed and has been lost since the government took over these states.
The New Forest Policy of 1952	<ul style="list-style-type: none"> • It recognized the protective functions of the forest. • It aimed at maintaining one-third of India's land area under forest (60 per cent in hilly and mountainous areas, and 25 per cent in the plains). • Suggested the extension of tree-lands on river/canal banks, roads, railways, culturable waste and in such areas which were not suitable for cultivation. • Much of the original British policy was kept in place. • Classified the forests of the country into four categories: <ol style="list-style-type: none"> a. Protected forests essential for physical and climatic needs. b. National forests to be utilized for the economic needs of the country. c. Village forests to meet the fuel and domestic needs of villages and neighboring

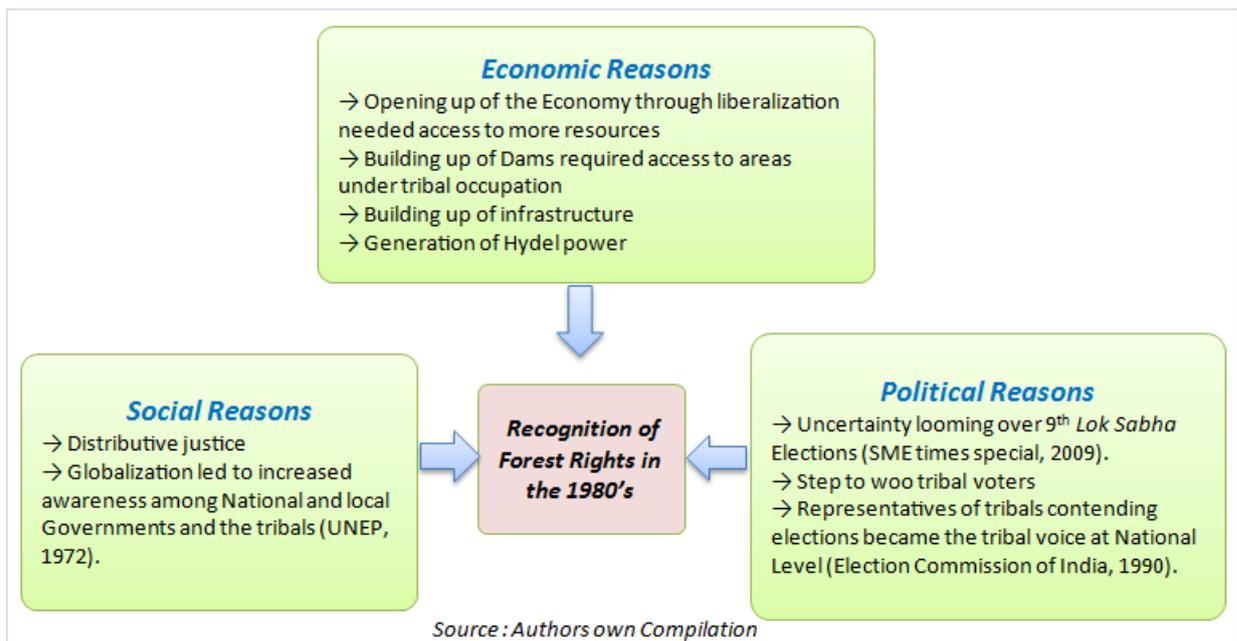
	<p>towns.</p> <p>d. Tree lands: The policy envisaged the annual organization of <i>Van-Mahotsava</i> and tree plantation week in the month of July/August.</p> <ul style="list-style-type: none"> • Emphasis of the Policy: <ul style="list-style-type: none"> (i) Getting the tribal people accustomed to, by persuasion, to abstain from shifting cultivation. (ii) Implementation of forest laws more effectively. (iii) Providing adequate facilities for the management of forest resources. (iv) Controlling grazing of cattle, sheep and goats in forest areas. (v) Providing fuel-wood to rural areas. (vi) To improve the availability of timber wood for industrial purposes. (vii) To increase the area under social forestry. (viii) To promote research in forestry. • It asserted the monopoly right of the State on forests and eroded the legitimacy of the community's claims on forests. • In the next 50 years, through the five year plans a constructive attitude of the people was built towards forests (Gadgil and Guha, 1992, Poffenberger and McGean, 1996).
<p>Wildlife Protection and Preservation Act, 1972</p>	<ul style="list-style-type: none"> • The federal government passed the Wildlife Protection Act, 1972. • It has a significant impact on the management of States and therefore also on the people living in forests and dependent on forests for their sustenance and livelihood. • The focus of the Act was protection and conservation of wildlife, protection of plant and animal species, and ensuring ecological and environmental sustainability. • It did not pay adequate attention to forest-inhabiting and forest-dependent communities. • It did not consider the customary rights and privileges of the people important for the cause of wildlife protection and management (Vaidya, A., 2011). • The Act did include provisions for the settlement of rights of people living in forest areas before their area could be finally notified as a protected area for its conversion into national parks, wildlife sanctuary etc.
<p>Forest Governance became subject of Concurrent List in 1976</p>	<ul style="list-style-type: none"> • 'Development without destruction' and 'forests for survival', were the themes of the next two five-year plans. • It aimed at increasing wildlife reserves and at linking forest development with the tribal economy. • A large gap between aim and achievement exists even today.
<p>National Commission on Agriculture (1976)</p>	<ul style="list-style-type: none"> • It advocated commercialization of forests with complete disregard for <i>adivasi</i> and other forest-dwelling communities. • It asserted that 'production of industrial wood has to be the prime reason for the existence of forests.'

	<ul style="list-style-type: none"> • The Commission recommended that 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 social forests. • It recommended that the objective 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'. • The enactment of a revised all-India forest Act was another recommendation.
<p>Forest Conservation Act 1980</p>	<ul style="list-style-type: none"> • Initially passed as an ordinance and later became an Act. • A change in concern regarding management and governance of forests was witnessed. • The focus shifted from exploitation to conservation of forests. • It prohibited the states from allowing the use of forest land for any other purpose without the approval of the Central Government. • Later amended in 1988, to prohibit state governments from assigning, by way of lease or otherwise, any forest land or any portion thereof to any private person or authority not owned, managed or controlled by government without previous sanction by the central government. • The emphasis and focus of this legislation was forest conservation. People living in these forests and their rights were again given less importance as compared to the conservation motive.
<p>National Forest Policy of 1988</p>	<ul style="list-style-type: none"> • Under this policy there took place the first paradigm shift towards recognition of rights of forest-dwelling and forest-dependent communities on forests. • Emphasis was laid on the protection, conservation, regeneration and development of forests. • The forest department was moved from the Ministry of Agriculture to the Ministry of Environment and Forests, in 1985. • Focus of the forest management strategy shifted from the from revenue motive to concerns regarding the environment. • The Key points in the policy were: <ul style="list-style-type: none"> (a) Maintenance of environmental stability through the preservation and restoration of ecological balance. (b) Conservation of forests as a national heritage with vast varieties of flora and fauna. (c) Controlling soil erosion and denudation in catchment areas of rivers, lakes and reservoirs. (d) Checking on the extension of sand-dunes in desert areas of Rajasthan and along the sea-coasts. (e) Increasing the forest cover substantially through massive afforestation and social forestry programmes (f) Meeting the needs of fuel-wood, fodder and minor forest products for the rural and tribal people.

	<p>(g) Augmenting the productivity of the forests to meet national needs.</p> <p>(h) Encouraging of efficient utilization of forest produce and optimum substitution of wood.</p> <p>(i) Initiating a massive movement of people with the involvement of women folk to achieve these objectives and minimizing pressure on existing forests.</p> <p>(j) Involving people in forest management under joint forest management.</p>
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- **United Nations Conference on the Human Environment: Stockholm Declaration of 1972**
The United Nations Conference on the Human Environment was held at Stockholm from 5 to 16 June 1972. It laid emphasis on the need for a common outlook and for common principles to inspire and guide the people of the world in the preservation and enhancement of the human environment (UNEP, 1972). Human environment is the area that humans live in. A physical and natural environment and the relation of the people with said environment. This includes physical, biological, cultural, social and economic factors in said environment (Quora.com).

Fig 3 Recognition of Forest Rights: The Context



The protection and improvement of the human environment is a major issue which affects the well-being of people and economic development throughout the world; it is the urgent desire of the people of the whole world and the duty of all the Governments across the globe. For achieving this UNEP advocated the equitable sharing of common efforts and responsibilities between citizens & communities and enterprises; and the local and national Governments. This led to increased attention being paid to the forest rights of the people inhabiting the forests around the world.

2. A Step towards Decentralizing Forest Management: The Forest Policy of 1988 was the first step towards recognizing the rights of tribals and other forest dwellers in India and decontrolling forest management. Devolution in case of natural resources is seen as a tool to achieve political

as well as economic (distributional) equities at local level. While political equity describes who gets the decision making power economic equity focuses on who gets what benefits (Poteete, 2004). The underlying argument promoting devolution as transfer of power accompanied by ‘downward accountability’, is that it would ensure economic efficiency, sustainability of the resource and improve social and economic equity (Agrawal and Ostrom, 1999; Fisher, 1999; Ribot, 2002,2003). Decentralization was seen as a tool for achieving development goals in the sense that these would respond to the needs of local communities (World Bank, 2000:106; Naidu, Sirisha, 2009).

From the above discussion it is amply clear that till the 1988 forest policy, the concerns of forest-dependent communities and tribals were never sufficiently articulated by any official law or policy document of the GOI. Protection, preservation and conservation of wildlife, ecosystems and forests in general were seen exclusively; people who had been residing in such areas for generations and who were dependent on forest resources for their sustenance were somehow never considered stakeholders in conservation strategy. Perhaps they did not have enough of a voice; or maybe their voice simply did not matter (Vaidya, A., 2011). Sharing of power to manage forests and sharing the resources with the tribals and OTFD was done keeping in mind the tribal votes which mattered in the general elections in India in 1989.

3. Joint Forest Management: Another small step in making people stakeholders in forest

management: After the National Forest Policy of 1988, some progress was made in the direction of involving people living in forests in their management and conservation. However, social forestry schemes like Joint Forest Management are run only as programmes; there is no tenurial security for people associated with such programmes. When forest land has to be converted for non-forest use, forest-dwellers and forest-dependent people are left high and dry because their rights are treated as concessions accorded to them by the forest department without them having any legal sanctity.

4. The Biological Diversity Act, 2002 also acknowledged the importance of local people’s participation in any attempt towards conservation of biodiversity, and envisages the constitution of a Biodiversity Conservation Committee at the *Panchayat* level. This Act therefore does not disenfranchise the local community from participating and having a say in the management of their biodiversity.

5. Forest Rights Act 2006

- a) **Introduction:** The FRA is the first of its kind in the attempt to undo the “**historical injustice**” done to tribals and forest-dwellers, to use the oft-repeated phrase. It is a much delayed but right step in the right direction. It envisages recognition of customary rights of forest-inhabiting and forest-dependent scheduled tribe and non-scheduled tribe communities long after legislation for the protection and conservation of wildlife, ecosystem and forests was put in place. To quote from the preamble of the Act itself, this enactment was made to recognize and vest forest rights and occupation on forest land with forest-dwelling scheduled tribes and other traditional forest-dwellers (OTFD) who have been residing in such forests for generations but whose rights could not be recorded. The Act also offers a framework for recording the forest rights so vested and the nature of evidence required for such recognition and vesting with respect to forest land.
- b) For the first time, this law also gives the community the right to protect and manage the forest. Section 3(1) (i) provide a right and a power to conserve community forest resources, while section 5 gives the community a general power to protect wildlife, forests, etc. This is vital for the
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thousands of village communities who are protecting their forests and wildlife against threats from forest mafias, industries and land grabbers, most of whom operate in connivance with the Forest Department.

- c) The Act envisages sustainable use, conservation of biodiversity and maintenance of the ecological balance to strengthen the conservation regime of forests and ensure the livelihood and food security of forest-dwelling scheduled tribes and other traditional forest-dwellers. This indicates a very clear diversion from the previously practiced exclusionist approach adopted to meet conservation objectives, hopefully heralding a new era in forest management where people living in forests and dependent on forests for their sustenance are not considered a hindrance in the conservation of biodiversity, maintenance of ecological balance and protection of wildlife. The Act also enumerates a process in the event of conflict of interest between livelihood needs and wildlife conservation, and accords due importance to the latter wherever necessary. For the first time, not only have historical injustices to forest-dwelling scheduled tribes and other traditional forest-dwellers been acknowledged, they have been accepted and recognized as an integral part to the very survival and sustainability of forest ecosystems.
- d) A law of such far-reaching consequences was sure to face a lot of opposition from the very well-entrenched proponents of exclusionist conservation. By integrating the livelihood needs of forest-inhabiting and forest-dependent tribal and non-tribal communities in overall forest management and governance strategies, and by making the participation of these people mandatory in forest management, the law brings in a much-needed democratization in the field of forest governance (International Forestry Review 2008).
- e) **The Act basically does two things:**
- Grants legal recognition to the rights of traditional forest dwelling communities, partially correcting the injustice caused by the forest laws.
 - Makes a beginning towards giving communities and the public a voice in forest and wildlife conservation.
- f) **Necessary Conditions to qualify as a forest dweller under The Act:**

There are two stages to be eligible under this Act.

❖ First, everyone has to satisfy two conditions:

- Primarily residing in forests or forest lands;
- Depends on forests and forest land for a livelihood (namely “bona fide livelihood needs”)

❖ Second, one has to prove:

- That the above conditions have been true for 75 years, in which case a person becomes Other Traditional Forest Dweller (section 2(o)); OR
- That the person is a member of a Scheduled Tribe (section 2(c)); and
- That a person is residing in the area where they are Scheduled (section 4(1)).

In the latter case one becomes a Forest Dwelling Scheduled Tribe.

g) Recognition of Rights

- Section 6 of the Act provides a transparent three step procedure for deciding on who gets rights.
- First, the *gram sabha* (full village assembly, not the *gram panchayat*) makes a recommendation – i.e. who has been cultivating land for how long, which minor forest produce is collected, etc. The

gram sabha plays this role because it is a public body where all people participate, and hence is fully democratic and transparent.

- The *gram sabha*'s recommendation goes through two stages of screening committees at the *taluka* and district levels.
- The district level committee makes the final decision (section 6(6)). The Committees have six members – three government officers and three elected persons. At both the *taluka* and the district levels, any person who believes a claim is false can appeal to the Committees, and if they prove their case the right is denied {sections 6(2) and 6(4)}.
- Finally, land recognized under this Act cannot be sold or transferred (Naidu, Sirisha, 2009).

h) **Process of Recognition of Rights** fig. 4

Initial passing of a resolution recommending whose rights to which resources should be recognized.

It screens the resolution already passed by Gram Sabha and approves it.

Makes the Final Decision

Source: Authors own creation

i) *Kind of rights forest dwellers get under this Act*

The law recognizes three types of rights:

❖ **Land Rights**

- No one gets rights to any land that they have not been cultivating prior to December 13, 2005 (section 4(3) of the Act) and that they are not cultivating right now.
- Those who are cultivating land but don't have document can claim up to 4 hectares, as long as they are cultivating the land themselves for a livelihood (section 3(1) (a) and 4(6)).
- Those who have a *patta* or a government lease, but whose land has been illegally taken by the Forest Department or
- Whose land is the subject of a dispute between Forest and Revenue Departments, can claim those lands (section 3(1)(f) and (g)).

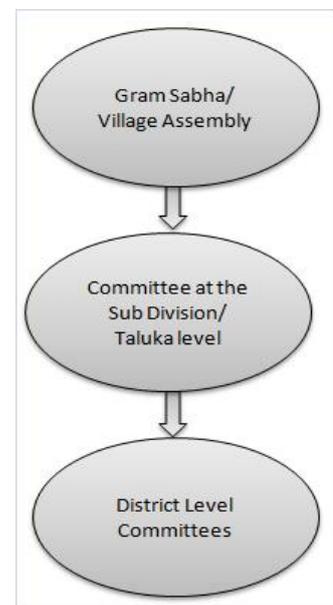
There is no question of granting 4 hectares of land to every family. {If someone is cultivating half a hectare on December 13, 2005, he would receive title to that half a hectare alone; and if he is cultivating nothing, he would receive nothing. If someone is cultivating more than 4 hectares without documents or a dispute, he will receive title to only 4 hectares.}

- The land cannot be sold or transferred to anyone except by inheritance (section 4(4)).

❖ **Use Rights**

The law secondly provides for rights to use and/or collect the following:

- Minor forest produce things like *tendupatta*, herbs, medicinal plants etc. "that has been traditionally collected (section 3(1) (c)). This does not include timber.
- Grazing grounds and water bodies (sections 3)



c. Traditional areas of use by nomadic or pastoralist communities i.e. communities that move with their herds, as opposed to practicing settled agriculture.

❖ **Right to Protect and Conserve**

Though the forest is supposed to belong to all of us, till date no one except the Forest Department had a right to protect it. If the Forest Department should decide to destroy it, or to hand it over to someone who would, stopping them was a criminal offence (Vaidya, A., 2011).

j) FRA implementation status

Following points bring out the problems and challenges faced in the implementation of FRA and how the same need to be/ should be dealt with for achieving the objectives for which this Act was instituted.

- To ensure optimum efficiency it is a must that laws, systems and processes do not function only because of the social conscience of the people implementing them but despite the lack of interest of the implementers/incumbents of such laws and institutions.
- In implementation of the FRA there are issues at two levels: law/policy, and actual execution. The first needs to be urgently looked into to address issues faced at the execution level. Review of the implementation process should be made mandatory at regular intervals. Any learning from such a review process should be taken as feedback and incorporated into the revised process.
- The Ministry of Environment and Forests (MoEF) and the Ministry of Tribal Affairs (MoTA) constituted a joint committee in April 2010 to review implementation of the FRA in India with a specific TOR outlined for the purpose. The overall finding of the committee is that, with notable exceptions, implementation of the FRA has been poor; therefore its potential for achieving livelihood security and changes in forest governance, along with strengthening forest conservation, has barely been realized.
- The commission grouped its findings on FRA implementation under the following heads:
 - a. Process and institutions
 - b. Individual forest rights
 - c. Community forest rights
 - d. Implementation of development projects
 - e. Implementation for special groups
 - f. Protected areas and critical wildlife habitats
 - g. Future structure of forest governance
 - h. Enhancing livelihoods through NWFP
 - i. Convergence of development programmes for STs and OTFDs

k) Latest in FRA: Centrality of Gram Sabha's role Upheld

Under the FRA no exemption can be granted from the process of recognition of rights for certain kinds of projects. The Act does not provide any exemption to any kind of projects. Compliance with FRA is a mandatory requirement before forest land can be diverted for use for some other purpose. The centrality of Gram Sabha's role has also received affirmation from the Hon'ble Supreme Court in the Orissa Mining Corporation Case (FAQ on FRA by UNDP in collaboration with MoTA) .

➤ **Interim Orders of the Madras High Court Vacated in 2016:**

In February 2016, the Hon'ble Supreme Court vacated an interim order passed by the Madras High Court which restricted the implementation of the Forests Rights Act in the State of Tamil Nadu. Post this order it is anticipated that the processing of claims and recognition of forest rights in Tamil Nadu would pick up pace and the forest dwelling Scheduled Tribes and the other traditional dwellers in Tamil Nadu and all over the country can look forward to their forest rights being finally recognized, vested and recorded (Business Standard, Chennai, 2016).

V. Changes in the Forest beneficiaries and Policy Objectives

Time Period	Contribution of Forestry: Main beneficiaries	Changes in the Forest Policy
Ancient Period	Forest Dwellers	Forest Dwellers worshipped forests.
Muslim Invasion	The locals and the Muslim invaders.	Muslim invaders took care of the maintenance and conservation of Forests.
Pre British Period	Locals and Feudal authorities.	Unrestricted use of forests by the locals. Extensive freedom enjoyed by the community.
British Period	The main beneficiary was the British government in India. Locals enjoyed some rights.	Full control Under the British Government. Massive exploitation of forests. Conservation of forests totally ignored.
The Indian Forest Act of 1927	The British Government in India.	British Government's control over Forests. Revenue generation main motive behind exploitation of forests.
Time period between 1926 – 1947	The British Government in India and Britain and a few benefits enjoyed by the locals.	-Afforestation was carried out on a large scale in Punjab and Uttar Pradesh. -People showed interest in the conservation of wild life. -Severe depletion of forest resources. -Advancements in scientific management of forests -Nothing done for the protection and regeneration of forests. -Emphasis on gaining maximum revenue from forests.

Post British Rule	The Indian Government and the local people.	<ul style="list-style-type: none"> • Princely states gave more concessions to the local populations. • Massive destruction of forests on account of transfer of forests to the Government.
The New Forest Policy 1952	Indian Government and the local people	<ul style="list-style-type: none"> • Recognized the protective functions of the forest. • It aimed at maintaining one-third of India's land area under forest • It asserted the monopoly right of the State on forests and eroded the legitimacy of the community's claims on forests.
Wildlife Protection and Preservation Act, 1972	The Indian Government and locals .	<ul style="list-style-type: none"> • Focus of the Act was protection and conservation of wildlife, protection of plant and animal species, and ensuring ecological and environmental sustainability. • Did not pay adequate attention to forest-inhabiting and forest-dependent communities.
National Commission on Agriculture 1976	Indian Government and local community.	<ul style="list-style-type: none"> • 'Development without destruction' and 'forests for survival', the themes of the next two five-year plans. • Forest Conservation a part of the Concurrent list. • It asserted that 'production of industrial wood has to be the prime reason for the existence of forests.
Forest Conservation Act 1980	Indian Government and locals.	The emphasis and focus of this legislation was forest conservation. People living in these forests and their

		rights were again given less importance as compared to the conservation motive.
National Forest Policy of 1988	Indian Government and the locals.	<p>Recognized the rights of forest-dwelling and forest-dependent communities on forests.</p> <ul style="list-style-type: none"> • Emphasis on the protection, conservation, regeneration and development of forests. • The forest department was moved from the Ministry of Agriculture to the Ministry of Environment and Forests, in 1985. • Focus of the forest management strategy shifted from the from revenue motive to concerns regarding the environment
Joint Forest Management and the Biodiversity Act 2002	Indian Government and the locals.	It advocates the recognition of the rights of the forest dwellers and involving people in the management of forests.
Forest Rights Act 2006	Indian Government and the local community.	<ul style="list-style-type: none"> • Attempts to undo the “historical injustice” done to the forest dwellers and tribals. • The law brings in a much-needed democratization in the field of forest governance. • Scheduled tribes and traditional forest dwellers have been accepted and recognized as an integral part to the very survival and sustainability of forest ecosystems.

VI. Conclusion:

If the government is really serious about successful implementation of the FRA and wants to reach the maximum intended beneficiaries then the nodal ministry, Ministry of Tribal Affairs has a lot of work to do. To minimize inequity, to encourage fair play and objectivity, the aim should be to fine-tune processes and institutions and make them as independent as possible of the competence and intentions of the officers manning them. Ministry of Tribal Affairs will also have to win a psychological battle with the forest department. The forest department needs to be re-oriented and trained all over again to make it understand the critical role it has to play in overall forest management. Without its active and willing support, the transition in management of forests from

being state-centric to people-oriented, where, along with conservation and protection of wildlife, biodiversity, flora and fauna, people's rights too are looked at with the same respect and urgency cannot be achieved. Intensive training and reorientation programmes at all levels of forest departments in the state should be designed keeping in mind the new role that the department is called upon to play in the changing scenario. Without such training, officials of the forest department cannot be expected to change their mindset overnight just because legislation to that effect has come into force. Only those officials should be put in charge of FRA implementations that have successfully undergone the training-cum-reorientation programme. Without active and willing cooperation from the state forest departments, the task of reaching out to the intended beneficiaries and proper implementation of the FRA will remain a distant dream. The Government has to emerge from the mindset of doling out grants, scholarships and freebies and rise to the occasion of helping scheduled tribes and other traditional forest-dwellers get their just rights. There's a need to strike a fine balance between wildlife, forests and indigenous people. None can be sacrificed for the other. They all have to co-exist and flourish.

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