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REIMAGINING FOREST JUSTICE: RECONCILING THE RIGHT TO LIVELIHOOD OF FOREST DWELLERS WITH WILDLIFE AND FOREST CONSERVATION IN INDIA

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ABSTRACT

India's forests are home to millions of people, including around 100 million Scheduled Tribes and other traditional forest dwellers, who rely on forest resources for their livelihood. At the same time, forests and wildlife, which encompass diverse plants, animals, and ecosystems, face increasing threats from human activities and large-scale development. This article examines the legal framework governing forest rights, conservation, and wildlife protection, focusing on the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA), the Forest (Conservation) Act, 1980 (FCA) and its 2023 Amendment, and landmark Supreme Court judgments such as *T. N. Godavarman Thirumulpad v. Union of India*³. It analyses recent litigation (2023–2025) and case studies from Maharashtra, Karnataka, and Assam, highlighting both displacement risks and successes in community-led conservation. The article advocates a rights-compatible conservation model, emphasizing strengthened Gram Sabha processes, transparent FRA implementation, and co-management approaches that reconcile ecological sustainability with the livelihood rights of forest dwellers.

Keywords:- wildlife, Scheduled Tribes, forest rights, ecosystem, livelihood, FCA, conservation, Forest Dwellers.

INTRODUCTION

India's forests occupy a critical space at the intersection of ecological conservancy and human sustenance. They support rich biodiversity, maintain vital ecosystems, and provide livelihoods for millions of forest-dependent groups, including Scheduled Tribes and other traditional dwellers. These communities have coexisted with forests for generations, relying on forest

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resources for food, medicine, and cultural practices, while contributing to habitat conservation. However, forest conservation often comes into tension with the rights and livelihoods of these communities. Measures such as the creation of protected areas, restrictions on forest use, and wildlife conservation initiatives have, at times, resulted in displacement and loss of livelihood, raising questions about the adequacy of constitutional and statutory safeguards. The Indian Constitution addresses these concerns through Article 21 (right to life and livelihood), Article 48A (protection of environment), and provisions safeguarding Scheduled Tribes. Legislations like the Forest Rights Act, 2006, the Forest (Conservation) Act, 1980, and the Wildlife Protection Act, 1972 provide a statutory framework to balance environmental protection with community rights. This article examines this delicate balance, scrutinizing legal frameworks, judicial interpretations, and field-level case studies, to propose a rights-compatible model for forest conservation in India.

Legislative Framework for Wildlife and Forest Conservation in India

The history of modern forest legislation in India is more than a century old. The first codification in relation to the administration of forest in India was the Indian Forest Act, 1865. 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 radically changed the nature of common property, making it state property.⁴

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 Forest policy of 1988 focused on environmental stability and maintenance of ecological balance. The Act was amended from time to time and was ultimately repealed and replaced by the Indian Forest Act, 1927⁵

The need for wildlife protection and conservation in India was felt in the early 1970s. In 1969, the International Union for the Conservation of Nature and Natural Resources (IUCN) General Assembly meeting was held in Delhi. This resulted in imposing a national ban on the hunting

⁴ <https://www.lawteacher.net/free-law-essays/international-law/the-indian-forest-and-wildlife-acts-international-law-essay.php>

⁵ IBID 1

of tigers in the year 1970 and then the Wildlife Protection Act was enacted and enforced in the year 1972 by the Government of India and a strategy was adopted and implemented to permit government and non-government organizations to work towards the conservation of wildlife. The World Conservation Strategy was also formed by the International Union for Conservation of Nature and Natural Resources (IUCN) in collaboration with the Food and Agriculture Organization of the United Nations (FAO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO) with cooperation, advice and financial assistance received from the United Nations Environment Programme (UNEP) and the World Wildlife Fund (WWF).⁶

Until before 1976, forest and wildlife were State subjects in the Indian Constitution. The forest departments regulated forests in accordance with the Forest Act of 1927. Recognizing the significance of forests and wildlife, the 42nd Amendment to the Constitution deleted both from the State list and placed them in the Concurrent list, bringing them under the purview of both the Central and State governments. Now, Centre and States may legislate on issues pertaining to forests and protection of wildlife.⁷

Furthermore, a new Directive Principle of State Policy became established by the 42nd Amendment:

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.⁸ Forest and Wildlife Legislations in India

- Wildlife Protection Act, 1972

The Wildlife Protection Act was enacted by the Government of India with the main objective of protecting the wild animals and plants species and thereby protecting and conserving the biodiversity of the country. After that the Government of Independent India enacted the Wildlife Protection Act, 1972 with the aim of providing protection

⁶ Supriti trivedi, Conservation of wildlife, legal issues and challenges in India. Available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2437317

⁷ (<http://envfor.nic.in/divisions/ic/wssd/doc2/ch9.html>)

⁸ IBID 5

and ensuring safety of the wild animal and plant species. The Act was also regularly amended in 1976, 1982, 1986, 1991, 1993 and 2006 as per the requirement and recent developments and with provisions for better implementation.

- The Indian Forest Act, 1927

This Act was enacted by the Government of India based on the previous Acts which were implemented by the British in 1878. The main aim of this Act was to consolidate and reserve the areas covered by the forests including the wildlife and also to control the forest produce such as timber. This Act also defined the procedures which were to be followed in declaring reserved, protected or village forests.

- The Forest (Conservation) Act, 1980

The Forest (Conservation) Act was enacted in 1980 with an aim of keeping a check on the deforestation and conservation of forests and providing matters related to it and was further amended in 1998. The Act has five sections for dealing with the conservation of forests. Currently, there is a complete ban on the use of forest land and non-forest activities without the government approval.

- The Environment (Protection) Act, 1986

The Environment (Protection) Act was enacted in the year 1986 with an objective to provide protection and improvement of the environment as a whole. It also empowers the Central Government to prevent environmental pollution in all forms and also to resolve environmental problems arising in the country by establishing suitable authorities with adequate powers. The Act was further amended in 1991.⁹

- The Biological Diversity Act, 2002

The Biological Diversity Act, 2002 was enacted by the Government of India in 2002 with an aim to conserve the biological diversity in India, sustainable use of its components and to provide mechanisms for equitable sharing of the benefits arising out of use of biological resources and knowledge. This Act was enacted to strengthen its obligation under the Convention on Biological Diversity (CBD) of the United Nations signed on 5th June 1992, since India is a party to it.¹⁰

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)

⁹ <https://blog.ipleaders.in/right-livelihood-forest-dwellers-conservation-forest/>

¹⁰ The Biological Diversity Act, 2002

Act, 2006, commonly known as the Forest Rights Act (FRA), 2006, was enacted to recognize and vest legal rights over forest land and resources in traditional forest-dwelling communities and Scheduled Tribes. For decades, these communities were deprived of their customary rights due to the continuance of colonial-era forest laws, which prioritized state control over forests and restricted access to resources necessary for their livelihood and cultural practices.

The Act, which came into force on 29 December 2006, seeks to partially redress historical injustices by formally recognizing:

1. Individual forest rights – including occupancy, cultivation, and ownership of land that has been under individual or community use.¹¹
2. Community forest resource rights (CFRs) – recognising community entitlements to collect, use, and manage forest produce.
3. Habitat rights – ensuring protection and governance of lands for Particularly Vulnerable Tribal Groups (PVTGs) and forest-dependent communities.

By legally empowering forest dwellers through recognition of rights and establishing Gram Sabha-based participatory processes for identification and adjudication, the FRA represents a landmark shift from purely conservation-centric forest governance to a rights-compatible framework that balances ecological protection with human livelihood. It is also referred to as the Tribal Rights Act or the Tribal Land Act in certain contexts¹².

Forest (Conservation) Act, 1980 and 2023 Amendment

The FCA restricts diversion of forest land for non-forest use. Its 2023 amendment revises definitions and clearance procedures; critics argue it dilutes safeguards and undermines FRA-based participatory control.¹³ Multiple petitions in the Supreme Court and High Courts challenge the amendment's validity.¹⁴

Judicial Architecture — the Godavarman Legacy

In *T. N. Godavarman Thirumulpad v. Union of India*¹⁵ the Supreme Court re-defined “forest” to include all areas recorded as such in government documents, creating a continuing

¹¹ Harsh, “forest rights act and the role of judiciary in north east India, ILI Law Review 2023. Pg:204-225

¹² SUPRA 10

¹³ Banwasi Seva Ashram v. State of U.P., AIR 1987 374.

¹⁴ Wildlife First v. Union of India, W.P.(C) 109/2008 (pending).

¹⁵ T. N. Godavarman Thirumulpad v. Union of India AIR 1997 SC 1228

mandamus regime supervising conservation. This greatly expanded forest governance but also brought customary use areas under strict regulation, complicating FRA implementation¹⁶.

Recent Judicial Developments

A. Constitutional Scrutiny of FRA–FCA Interface

In *Wildlife First v. Union of India* (W.P.(C) 109/2008) and connected matters, the Supreme Court examined whether the FRA’s protective provisions conflict with conservation statutes. Interim orders stressed that no eviction may occur until due process under the FRA is completed, reflecting judicial awareness of the livelihood stakes¹⁷

B. Eviction Orders and Human Impact

Civil-society reports in 2025 noted that more than 17 lakh claimants could be affected by rejection of FRA claims. The Court has repeatedly directed status quo where claims are pending, as in *Assam and Madhya Pradesh eviction matters*.¹⁸

Analysis of forest rights of the dwellers over the years

The development of forest rights dates back to the 18th century where Lord Dalhousie in 1856 realized that we need a definite forest policy. In the year of 1927, the Indian Forest Act came into force which has provided that right to the state to declare any forests as the reserved forest. Section 5(3) of the Act provides that after the particular area of forest is reserved, then there would be no protection of the rights in that reserved area.¹⁹

Therefore, the rights of the dwellers were ignored at that time. After the Wild Life Protection Act, 1972 came into force, the Act raised the question of the protection of the forests and wildlife over the protection of the rights of the tribal people residing in the forest. The statements of the objects and reasons of the Act have provided that after the arrangements have been made by the government for displacing the tribal population for the protection of the wildlife, no individuals will have claim over that property unless that individual had any

¹⁶GARIMA THAKUR, EXIGENCY OF AN OVERHAUL IN FOREST LAW: HOW THE FOREST (CONSERVATION) AMENDMENT ACT, 2023, HAS TRANSFORMED INDIA’S FOREST REGIME., *Nujs law review*, Available at <https://nujlawreview.org/wp-content/uploads/2023/12/16.2-Thakur-2.pdf> 2023, pg: 289-321

¹⁷“Supreme court hearings on FRA Eviction order”, *Supreme Court Observer*(2025)

¹⁸ Pachgaons bamboo revolution” the gurdian (dec 2024) available at <https://www.theguardian.com/global-development/2024/dec/17/india-ativasi-tribal-village-pachgaon-forest-law-traditional-rights>

¹⁹ <https://www.theguardian.com/global-development/2024/dec/17/india-ativasi-tribal-village-pachgaon-forest-law-traditional-rights>

ancestral property. This law was also not in favour of the tribals as they were displaced from their place and their livelihood was gravely affected.

After developing various policies for forest protection including the National Forest Policy in 1988, the government has established the Forest Rights Act in the year 2006. It aimed at protecting the rights of the forest dwellers and Scheduled Tribes and preserving them. Still, the government and the judiciary lack in the preservation of the rights of all these dwellers.²⁰

Rights of forest dwellers land

The tribals and the forest dwellers are provided ownership of the land which is being farmed by them over the years. This ownership is only provided to 4 hectares of the land. This ownership is provided to the land which is being farmed and cultivated by the tribal people and their family. However, no new lands are being granted to them.

The second type of right is the use rights which provide to collect or use the following things from the forest:

1. The forest produces herbs, medicinal plants, that used to be traditionally collected. This does not include any timber.
2. Grazing grounds as well as water bodies.
3. They are allowed to the traditional areas by Nomadic or pastoralist communities. These are those communities that move with their herds as opposed to the practice of settled agriculture.²¹

Constitutional Safeguards for Right to Livelihood of Forest Dwellers

- The basic fundamental right is the right to life and personal liberty is guaranteed under Article 21 of the Indian Constitution that provides the facets of living a dignified life.
- Article 39 of the Constitution specifies the State Government to provide ownership and control over the resources of the community for the welfare of the society. So that the land reforms are embodied under the Directive Principles of State Policy. In the same manner, the state has a duty to take care of the environment and forest resources and its eco-system under Article 48A. It is the obligation of the State to promote social

²⁰ SUPRA 7

²¹ FOREST RIGHTS ACT 2006

order where in social, economic, and political justice meets.²²

- Article 46 puts the duty of the state to cater special needs of the Schedule Tribes protecting them from exploitation and making social justice accessible to them.
- Article 15(4), of the constitution empowers the state to make special provision for the Scheduled Tribes.
- Article 335 of the Constitution provides for reservation in favour of Scheduled Tribes in services and posts of the Government.
- As a special provision Article 275(1) of the Constitution that ensures the financial flow for the tribal development.
- Article 244 and the fifth schedule protects the rights of the Tribal in India. Constitutional protection as well as statutory protection is given to the tribal people in India.

Landmark judgments

There are various judgments that have been passed by the Supreme Court either compromising or upholding the rights of dwellers staying in the forests.

Banwasi Seva Ashram v. State of UP and Others²³

The SC had to choose between the rights of the dwellers and tribes staying in the forest or electricity generation through the thermal power plants. Although the Supreme Court has passed the judgment for the protection of the rights of the dwellers and not displacing them from their place. But after certain years, the Supreme Court reversed the order and held that our country needs efficient power generation for industrial growth and therefore the requirement of thermal powers cannot be ignored.

Samatha v. State of Andhra Pradesh²⁴

The Supreme Court made an effort to interpret the fifth and sixth schedule which provides the governor with the right to make the rules but it should be in confirmation with rights of the tribals. The court provided that these schedules have been enacted for the purpose of protecting the tribals from any exploitation and to preserve the land for their economic empowerment.

²² <https://legallaidnlu.wordpress.com/2020/06/21/right-to-livelihood-of-forest-dwellers-and-conservation-of-forest/>

²³ AIR 1987 SC 374

²⁴ AIR 1997 SC 3297

Orissa Steel Mining Corp v. Ministry of Environment and Forest and Ors²⁵

The Supreme Court held that forest rights under FRA had to be considered while granting Forest Clearance for diversion of forest land for non-forest purpose. To obtain the objectives of the judgment. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 was implemented.

H.P. Bus-Stand Management & Development Authority v. Central Empowered Committee,²⁶ the ideological founding of environmental rule of law was said to be “on the need to understand the consequences of our actions going beyond local, State and national boundaries”.

Wildlife First v. Ministry of Forest and Environment²⁷

The claims of the forest dwellers over the forest lands of Assam, Bihar, Chhattisgarh and Goa. But this order was stayed by the Supreme Court, that retracted the order for eviction of 10 Lakh forest dwellers. Article 21 is the prime article that is provided in the Part III of the Indian Constitution. If there is deprivation of livelihood, it would make life impossible to live. Therefore, the forest dwellers should not be denied of livelihood.

T.N. Godavarman Thirumulpad v. Union of India (‘T.N. Godavarman’) order of 1996. The court in this case defined forest covered by the FCA as any land that satisfies the dictionary meaning of forest, irrespective of ownership and classification. This means that any diversion which took place before 1996 will get the stamp of legality²⁸.

Keys to Secure Forest Rights and Livelihoods of Tribals

- Protect and resolve the ongoing Supreme Court dispute against FRA and eliminate all uncertainty over the future of indigenous people's forest rights.
- To bring various state forest laws and regulations into compliance with FRA, 2006, amend the Indian Forest Act, 1927, Forest Conservation (Amendment) Rules, 2014, Wild Life Protection (Amendment) Act, 2006, Compensatory Afforestation Fund Act, 2016, and relevant rules and executive orders.

²⁵ SC WP (Civil) No. 180 of 2011

²⁶ (2021) 4 SCC 309.

²⁷ 2019 SCC Online SC 238.

²⁸ T. HAQUE ,SECURING FOREST RIGHTS AND LIVELIHOODS OF TRIBALS (Challenges and Way Forward) Available at http://nirdpr.org.in/nird_docs/srsc/srsc310820n.pdf

- Reorient forest bureaucracy to work in close cooperation with Gram Sabhas and tribal and other traditional forest dwelling communities for ensuring efficient, inclusive and sustainable management of forest resources.
- Transfer the Compensatory Afforestation Fund to Gram Sabhas for sustainable afforestation and livelihoods generation by the tribal communities.
- Build capacities of tribals and other traditional forest dwelling communities to submit FRA claims accurately, get their rights recorded and use simple tools such as GPS/GIS to mark land boundaries and to prepare land use maps.
- Provide adequately trained, albeit dedicated staff and financial resources at various levels for effective and expeditious implementation of FRA because the speed and quality of implementation matters.
- Develop region specific and cluster-based business plans for harnessing the full potentials of minor forest products in different States, ensuring the participation of tribal and other forest dwelling communities in production, marketing, value addition and other forms of entrepreneurship.²⁹

POSSIBLE SOLUTIONS IN WILDLIFE CONSERVATION AND IMPLEMENTATION OF LAWS

- Awareness among Public and Officials
- Recognizing and involving NGOs
- In-situ and Ex-situ Conservation
- Increasing Resilience of Nature Reserves
- Creation and Management of Biosphere Reserves
- Control over forest fire
- Reforestation and afforestation
- Protection of the forest.

CONCLUSION

In India, protecting wildlife and conserving forests are major challenges due to the escalating issues of illicit trafficking and resource exploitation. The public, law enforcement, non-profit and non-governmental organisations, communities and locals living in and around the

²⁹ Supriti trivedi, Conservation of wildlife, legal issues and challenges in India. Available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2437317

protected regions, and all arms of government authority must cooperate in order to accomplish this goal. Therefore, everyone must preserve a balanced ecology and safeguard this abundant resource. The state governments and central government is necessary to work together and implement all the applicable laws and conservation plans in order to conserve the wildlife, forest and prevent illegal hunting, deforestation and trading of these endangered species and wildlife as a whole. Ensuring that the act is implemented effectively is crucial for safeguarding the rights of Scheduled Tribes and forest inhabitants. It is not enough for the government to simply execute the Act; they also need to ensure that it is implemented effectively. Since the forests are their primary source of income, these communities have always worked to protect them. Their way of life will be negatively impacted if they damage the forests in any way. Nonetheless, it is believed that the tribal people are the ones destroying the forest. Rather, the government need to take the initiative to defend the rights of the millions of indigenous people and make an impact in their lives.

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