



## **INDIAN FOREST ACT AND POLICIES: BE AT VARIANCE WITH SOCIAL LEGITIMACY**

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### **ABSTRACT**

Indian woodland is a rich source of natural phenomenon, which maintains a gracious eco-balance and environmental potentiality. Ancient time scale to the present era Boscage is fulfilling needful action/desire, sourcing and supplying an enormous quantity of natural objects. So, the symbiotic relationship with the Cope area becomes a necessity for all life forms based on Indian woodland. There were many foreign invasions over the Indian Woodlands, of which The British invasion was remarkable, they were alluring India in the early 18th Century and permanently took charge of India as British India in 1760, ushering in monopolizing absolute supremacy over the Indian Boscage, they initiated a rule and finally an Act as Indian Forest Act 1865. The Indian Forest Act was amended in 1878 and finally enacted in 1927. Post independence India declared itself a Sovereign Democratic Republic State, but the Act remains the same. The Indian Forest Act is a piece of legislation enacted by the British Indian government in 1927. Its primary purpose was to consolidate and amend the laws related to forests, the transit of forest produce, and the duty levied on timber and other forest produce. The act aimed to regulate and manage forests in India, addressing issues such as forest conservation, protection, and revenue generation. The Forest policies were based on Scientific Management of the Forest, incepted since the 18th Century. The Policy guidelines were formulated to keep in view all aspects of the Forest that were practiced and emphasized factors like socio-economic, rural development, and environmental development as prime factors. Concessions were comprehended and extruded for the forest dwellers especially the Tribes in connection with livelihood sustenance. In this context, the 1894 policy of pre-independence, 1952, 1988 and 2018 policies of post-independence are mentionable for the same. The present sequel has been emphasized on the entire ambit of the tribal communities basically who are the forest dwellers since time immemorial. Collection of minor forest produces and uses thereof to maintain livelihood sustenance as offertory which executes a degree of dependence on the forest at the present day. Inclusion and exclusion determine the positivity of policy guidelines and practices that encourage the sustainable development of forest dwellers.

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### **INTRODUCTION**

Indian forest and its natural phenomenon is a synergy from time immemorial. Human civilization and its cultural heritage always encouraged society and people at large. Its vast area, rich sources of flora, fauna, and inbuilt resources build up the strength of the nation which attracted people on a large scale. The potentiality of life sustenance influenced the closer

acumen for shelter, having abode in its deep enclosures and fringes.

The Indian Forest was explored by the different invaders, where time scale is a historical identity that maintained a specialty in their own manner. The East India Company was one of the many, exploring India

during the early 18th Century. They were allured by the forest and its gigantic implicit. In 1760 they took charge of India as British India, The Indian flora, fauna, and its limitless credibility, and immanency magnetized them towards the Indian bosky. Sensing that they had little knowledge of the intricate contents within it, incapability of charging on the forest and forest products which had boundless commercial potentiality, while their rival, tribal counterparts were better acquainted with it, who knew the forest as if it was their palm. Realizing the fact and establishing absolute supremacy over the forest the then Government made a rule with law relating factors, ultimately an Act as Indian Forest Act, which came into force in 1865, amended in 1878, and finally in 1927 which is still in vogue.

The present study will peer into the crux of implementation, the effectiveness of the Indian Forest Act, and Policies, in connection with the collection of minor forest produces and uses thereof to maintain livelihood sustenance as offertory which executes a degree of dependence on the forest at the present day. Inclusion and exclusion determine the positivity of policy guidelines and practices that encourage the sustainable development of forest dwellers<sup>1-5</sup>.

### **Indian Boscage & Its Nomenclature**

According to Oxford Dictionary the literary meaning of Forest is a large area with trees and undergrowth. The trees growing in it. A large number of dense masses of vertical objects. If we look from ancient thoughts to the present era, the woodland plays a vital role, especially in all life forms. Currently, the Indian scenario has 22.6% of the total land area as claimed to be "Forest" with plenty of natural resources. Since the start of the human race a million years ago man evolved in a bosky with full of fossilized trunks. Dating back from prehistoric times to the modern era, human beings developed a symbiotic relationship with the never-ending resource generated by the Treasure Island. Woodlands - covered, sheltered, protected, and provided resourceful livelihood sustenance for them. In different time scales, globally the woodland areas were habitually extorted by the people at large, and where Indian Boscage was no exception. The inception of Indian Civilization, especially Indus Valley Humanisation revealed historic counteracts of the Indian Boscage, proper utilization and maintenance of woodlands was an inseparable part of their livelihood sustenance. Aryan & Vedic periods, Vishnupuran, Arthashastra Muryan &

Mughal periods in every phase of humanisation Indian Boscage was the foundation where they laid their own pillars of success, which supported them with plentiful natural resources. The woodland dwellers especially the Tribes were born within and grew in it along with the indigenous people who resided in the thicket areas from time immemorial. There are several scientists who worked in Indian Forest and forestry. The entire ambit of Bosky in India, right from the country's copse regions, legislation, protection, management, policy, silviculture, and wildlife to economics and trade has been encompassed by S.S.Negi's India's Forests, Forestry, and Wildlife in the year of 1994 and Forest for Socio-Economic and Rural Development in India, 1996. The research on the Indian Forest Act and its impact on the tribes were not highlighted till 2013, Dr. Suparna Sanyal Mukherjee in her awarded Ph.D. Thesis in 2013, and narrated that the Lodha appears to be a bewildered lot. They grew up in and around the forest and continue to have a good deal of dependence, are uncertain of what is on, or what may occur in the future.

She also pointed out in her published article "Predicaments of Forest Dwelling Tribes by Dint of Indian Forest Act", in Main Stream Weekly, VOL LIII No 25, New Delhi June 13, 2015, that the future of the forest-dwelling tribes is uncertain because of the impact of the said Act. In another article of hers on the topic of "Indian Forest Act and Democracy – Effect On The Tribal Traditional System", Mainstream Weekly, Vol LIV, No 18, New Delhi, April 2016, pp- 17-19, where she categorically mentioned that, if the tribal traditional system is ignored for reasons unknown and not taken proper care of, there is immense and every possibility that the tribal traditional system which is unique in its own way, may initially degenerate and eventually obliterate, which is not preached and practiced by Democracy.

She also narrated in her published article, "Indian Forest Act: Interpretation Of Subservient The Forest Needs Elucidation", International Journal of Research in Social Sciences, Vol-7, Issue5, May 2017, USA, pointed out that, the legal definition of Forest was/is not mentioned in the said Act. Thereby, democracy deserved a logical licit clarification in the eye of the law; though the Vth edition (1989) by B. R. Beotra, on Law of Forests, explains the Legislative History, National Forest Policy, Objects and Reasons, Scheme of the Act, Scope of the Act, its thirteen chapters, and eighty-six sections.

Nevertheless, its collision with the copse dwellers especially the Native was not investigated properly not even the subject matter of the Indian Boscage was mentioned in the Act as such<sup>6-9</sup>.

### **The Copse Captioned**

During the feudal regime in India, the feudal powers made specific provisions for the woodland dwellers, mainly the tribes to be in their main stream of livelihood, to maintain the Boscage and thereby earn their daily subsistence. The rulers were very keen on Copse protection, plantation, and systematic management of the treasure island the Indian Bosky, and at the same time, they yielded revenue from it. The Indian Monarchy was followed and ruled by different independent Rajas, Zamindars, and Talukdars they named their own Bosky territory Atabi, Arannya, Ban, Upaban, Mahaban, and Jungle as per their own idols opined from The Vedas, The Puranas and The Upanisad, who considered Indian Thicket as an indivisible part of their life span, where they maintained a non-severable relationship with the aboriginal people while continuing with this situation the British invasion continued to be on, alongside. Who was attracted by the luxuriant treasure box of the Indian Bosky. Early 18th Century the British were exploring India, and found Indian flora, and fauna with its rich potential embedded in every territorial niche.

In 1760, after taking charge of the Subcontinent India, The British started extortion from the immense Indian natural treasure box for their own commercial benefits, comprehending the revenue possibility hidden in the nooks and corners of the same. The time span, post takeover by the British and first initiation of any legal shape regarding the thicket area took over 100 years, since the rulers then were preoccupied with obvious, eminent treasures of the unmitigated Subcontinent. During this period the rules of the erstwhile individual feudal lords prevailed, allowing the woodland dwellers the privilege of receiving from the grove as per necessity and demand even beyond it. By then the British who co-extorted from the immense natural treasure – box, realised the quantum of revenue realization possibility from the Boscage. They also realized their inadequate knowledge of the same, thereby, being pushed to the rear by their counterparts, the forest dwellers, especially the tribes. Immediately they rose from their slumber and in the exercise of monopolizing the extortion from this Treasure Island, they initiated a rule and an embargo prohibiting

ingress and egress along with collection from the Bosky, which was later enacted, conclusively protecting them, providing them or their representative exclusivity in the field of such extortion<sup>6-9</sup>.

### **The Act Signifies**

**Forest Conservation and Management:** The act provides a legal framework for the conservation, protection, and sustainable management of forests. It outlines measures to prevent the unauthorized felling of trees and regulate activities within forest areas to ensure ecological balance.

**Revenue Generation:** The act establishes mechanisms for the government to generate revenue from forests through the collection of fees, duties, and penalties for the use of forest resources. This revenue can be utilized for various forest-related activities and initiatives.

**Control over Forests:** The act grants the government the authority to control and manage forest areas, including declaring reserved forests, protected forests, and village forests. It empowers the administration to enforce rules and regulations for the proper management of these areas.

**Forest Produce Transit:** The act regulates the movement of forest produce like timber, firewood, and other forest resources. It helps curb illegal trade and transportation of forest products.

**Wildlife Protection:** The act addresses wildlife protection in forest areas, making provisions for safeguarding endangered species and their habitats.

**Community Rights:** Over time, there have been amendments to the act to recognize the rights and privileges of forest-dwelling communities, ensuring their participation in forest management and the protection of their traditional rights.

**Enforcement:** The act provides a legal framework for authorities to take action against illegal activities within forest areas, promoting better enforcement of forest laws.

It's important to note that the Indian Forest Act has faced criticism over the years for various reasons, including its impact on forest-dwelling communities and the need for better integration of conservation practices with local traditions and sustainable development. Efforts have been made to amend and

update the act to address these concerns and align it with contemporary conservation principles.

### **The Act At Variance With Social Legitimacy**

The Indian Forest Act has historically been associated with various tribal communities in India, and this association has been a topic of debate and concern. Here are some key points to understand this relationship:

**Traditional Forest Dwellers:** Many tribal communities in India have been traditionally dependent on forests for their livelihoods, cultural practices, and sustenance. They rely on forest produce like fruits, nuts, medicinal plants, and non-timber forest products for their daily needs.

**Forest Rights:** The enactment of the Indian Forest Act and subsequent forest policies has sometimes led to the displacement and marginalization of tribal communities from their ancestral lands and resources. Their traditional rights and customary practices related to forests were not always recognized or adequately protected.

**Conflicts with Conservation Efforts:** The act's emphasis on forest conservation and control led to restrictions on tribal communities' access to forests, which often resulted in conflicts between conservation authorities and the tribal population.

**Amendments for Tribal Rights:** Recognizing these issues, the Indian Forest Act was amended in 2006 to include provisions for the recognition and vesting of forest rights to forest-dwelling communities under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, commonly known as the Forest Rights Act (FRA).

**Forest Rights Act (FRA):** The FRA aims to correct historical injustices and recognizes the rights of tribal and other traditional forest-dwelling communities over their traditional forest lands and resources. It empowers these communities to protect and manage forests sustainably while also taking part in decision-making processes.

**Community Forest Rights (CFR):** The FRA grants Community Forest Rights (CFR) to eligible tribal communities, allowing them to access, use, and manage forests in their traditional areas for subsistence and other traditional needs.

**Conservation with Community Participation:** The recognition of community rights under the FRA has led to the development of conservation models that involve active participation from tribal communities. Collaborative forest management approaches have shown promising results in maintaining biodiversity and ensuring the sustainable use of forest resources.

However, challenges persist in the effective implementation of the FRA and ensuring the protection of tribal rights. Some areas still face conflicts between tribal communities and conservation authorities, emphasizing the need for continued dialogue and balanced approaches to forest conservation and community empowerment.

### **Indian Forest Policies and Concessions to the Aborigines**

#### **National Forest Policy 1952**

The Government of India enunciated in its Resolution no:- 13-1/52F dated 12th May 1952, by the Ministry of Food & Agriculture. Later the Department of Revenue and Agriculture penned broad outlines of the general policy to be followed in the management of State Forests of the country.

The National Forest Policy of India, 1952 was formulated on the basis of six paramount needs of the country.

1. The prime need was focused on land allocation, which evolved through a system of balanced and complementary land use, under which it would produce the most and deteriorate the least.
2. The need for checking :
  - a) The basins of the river system constitute the fertile core of the country, which solely depends on the supply of water from the mountains. The mountains are susceptible to various situations of natural calamities, destruction, or denudation, affecting the perennial, perpetual, and continuous sources of water supply to the rivers, thereby affecting the fertility of the river basins.
  - b) The erosion progression, space along the treeless banks of great rivers leading to ravine formation. On vast stretches of un-diluting waste lands depriving the adjoining fields of their fertility.
  - c) The invasion of sea sand on coastal tracts and the shifting sand dunes, more particularly in the desert areas.

3. The general well-being of the people is to be promoted by way of forming tree land wherever possible, by amelioration of physical and climatic conditions.
4. Ensuring the need for progressively increasing supplies of grazing. Small wood for agricultural implements, firewood in particular, to release cattle dung acting as manure, to step up food production.
5. The need for sustained supply of timber and other forest produce, required for defence, communication, and industrial growth of the country.
6. The need for realization of maximum annual revenue in perpetuity, consistent with the fulfilment of needs, as iterated here-in-before.

These vital needs indicate the fundamental functions, the forests are to fulfil and provide the fundamental basis of the policy as guidelines for the future.

#### FUNCTIONAL CLASSIFICATION OF FORESTS

Having regard to the functions as discussed, the forests of India whether State or privately owned, may conveniently be classified as:

- a) **Protected Forests:** Those which must be preserved or created for physical and climatic considerations.
- b) **National Forests:** Those which have to be maintained and managed to meet the needs of defence, communication, industry, and other general purposes of public interest and importance.
- c) **Village Forests:** Those which have to be maintained to provide firewood, release cattle dung for manure, and yield small timber for agricultural implements and other forest produce for local requirements, to provide grazing for cattle.
- d) **Tree Lands:** Those areas, which though outside the scope of ordinary forest management are essential for amelioration of the physical conditions of the country.

These classifications are merely illustrative and by no means exclusive. Factually every forest is multifunctional and hence has to be so managed as to achieve the highest efficiency in respect to the functions assigned. This fundamental classification has no bearing on the classification of the forests

distinguished in the Indian Forest Act XVI of 1927, which is based on the degree of control exercisable on them.

#### National Forest Policy 1988

Post 1952 Indian Forest Policy, Indian Forestry began to experience rapid changes by way of which its socio-economic and rural developmental aspects became more pronounced. Taking into account the progress being made, the necessity of a new Forest Policy became essential. Efforts began for formulating a new National Forest Policy which was finally pronounced in 1988, taking into account the strategy to be followed for taking Indian Forestry into the 21st Century.

The earlier resolution passed by the Government of India on May 12th, 1952 were the guidelines for the management of forests in India. But over the years Indian Forests suffered serious depletion, which arose from the ever-increasing demand for fuel-wood, fodder, and timber. Inadequacy of protection measures saw the diversion of forest land to non-forest uses, other than agriculture. Naturally, it did not ensure compensatory afforestation and essential environmental safeguards. The strategy of forest conservation became imperative. Conservation means, preservation, maintenance, sustainable utilization, restoration, and enhancement of the natural environment.

The principal aim of the Forest Policy was to ensure environmental stability and maintenance of ecological balance, including atmospheric equilibrium for the sustenance of all life forms. The derivations of direct economic benefit had to be subordinated to this principal aim.

Rights and Concessions of the 1988 & 2018 Indian Forest Policies, related to the present study:

- The holders of the customary rights and concessions in the forest areas should be motivated to identify themselves with the protection and development of the forests from which they derive benefits. These facilities should primarily be for the bonafide use of the communities living in and around the forest areas with a special mention for the tribal.
- The life of the tribals and poor people living within or near the forest area revolved around the forest. The rights and concessions for such groups of people should be fully protected. Their captive consumption of fuel-wood, fodder and minor

forest produce, construction timber, and other allied forest products, should be the first charge on forest produce. These and or substitute materials should be made available through conveniently located depots at reasonable and affordable prices.

- Policy guidelines of 2018 also emphasized the few concessions as specified in the 1988 policy guidelines. One head load is a subjective affirmative for maintaining the livelihood sustenance of the forest dwellers as well as aboriginals.

### CONCLUSION

Though the act did not adequately recognize and protect the rights of tribal communities over their ancestral lands and forests. This led to conflicts and displacement of these communities from their traditional territories. The act established a centralized approach to forest management, which often did not consider the local needs, knowledge, and traditional practices of forest-dwelling communities. This top-down approach limited community participation in decision-making processes. The act primarily focused on forest conservation, often at the expense of the livelihoods of forest-dependent communities. This created a conflict between conservation goals and the survival and sustenance needs of local communities.

To address some of these limitations, the Indian Forest Act was amended in 2006 to include provisions for recognizing and vesting forest rights to forest-dwelling communities under the Forest Rights Act (FRA). The FRA aimed to correct historical injustices and involve local communities in forest conservation and management. However, challenges persist, and ongoing efforts are needed to strike a balance between conservation goals and the rights and needs of local

communities. The present study has proven facts into the crux of implementation; the effectiveness of the Indian Forest Act, and Policies, in connection with the collection of minor forest produces and uses thereof to maintain livelihood sustenance as offertory which executes a degree of dependence on the forest at the present day. Inclusion and exclusion determine the positivity of policy guidelines and practices that encourage the sustainable development of forest dwellers which is at variance of social legitimacy.

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