

Forest (Conservation) Amendment Bill, 2023

Why in News?

The Forest (Conservation) Amendment Bill, 2023, is under deliberation by a Joint Committee of Parliament, addressing the challenge of balancing industrial development and forest conservation.

Key Highlights and Facts

- The Forest (Conservation) Act, 1980, has regulated industrial exploitation and imposed costs on forestland usurpation.
- The T.N. Godavarman Thirumalpad case broadened the scope of protection to even unclassified forests.
- India's forest cover has seen marginal increases, with stagnant or incremental growth inside officially recorded forests.
 - Tree cover in orchards, plantations, and village homesteads is on the rise, contributing to India's claim of 24% of its area being under forest and tree cover.
 - India aims to increase this to 33% and create a carbon sink of 2.5 billion to 3 billion tons of CO₂ by 2030 as part of its international climate commitments.
- The existing Forest (Conservation) Act, 1980, was deemed insufficient for incentivizing private agro-forestry and tree plantation activities.
- From 2019 to 2021, India added 1,540 sq. km of forest cover, with 1,509 sq. km outside recorded forest area.

The new amendments to the Forest Act define the limits of the 1996 judgment and incentivize afforestation for commercial purposes.

- Only land recorded as 'forest' in any government record on or after 1980 would invoke provisions of the Act.
- Forest land authorized by states for non-forestry uses between 1980-1996 would not invoke provisions of the Act.
- States can no longer classify unclassified forest land or patches of trees with forest-like characteristics as 'forest land' under the amendments.
- Forest land up to 100 km near India's borders can be appropriated for "strategic and security" purposes without central approval.
- Critics argue that these amendments do not contribute to regenerating natural forests and primarily encourage afforestation for commercial gains.
- The parliamentary committee has not expressed any opinion or suggestion on the way forward, despite its statutory privileges.
- Grooming private forests might appear beneficial, but relying on them as a permanent carbon stock is questionable due to market incentives favoring their use as 'carbon credits.'

Green washing

Changes to conservation laws must be backed by scientific evidence

The Forest (Conservation) Amendment Bill, 2023, that is being deliberated upon by a Joint Committee of Parliament, is a contentious piece of legislation that signals the complex challenges involved in balancing industrial development and the conservation of forests. While industrialisation inevitably means usurping greater tracts of forest land and ecosystems, the Forest (Conservation) Act, 1980 has been the mantlepiece legislation that has empowered the state to regulate this and impose costs on such industrial exploitation. Originally meant for notified forests, a landmark Supreme Court judgment, in the T.N. Godavarman Thirumalpad case (1996), among other things, broadened the scope of such protection to even those not officially classified so. India's forest cover has seen only marginal increases, as biennial reports of the Forest Survey of India illustrate. Growth in forest cover inside officially recorded forests is stagnant, or at best incremental. It is tree cover in orchards, plantations and village homesteads that has been on the rise and supplementing India's claim that 24% of its area is under forest and tree cover. India has committed to increasing this number to 33% and adding a carbon sink of 2.5 billion to 3 billion tons of CO₂ this way, by 2030, as part of its international climate commitments.

The existing Forest (Conservation) Act, 1980 – in the Environment Ministry's reckoning – was insufficient for these ends, as it did not incentivise private agro-forestry and tree plantation activities. From 2019 to 2021, India added 1,540 square kilometres of forest cover of which 1,509 sq. km was outside recorded forest area. The new amendments to the Forest Act gave such incentives by clearly defining the limits of the 1996 judgment. Only land recorded as 'forest' in any government record on or after 1980 would invoke provisions of the Act. Forest land authorised by States for non-forestry uses between 1980-1996 would not invoke provisions of the Act. The amendments effectively mean States can no longer classify unclassified forest land, or patches of trees with forest-like characteristics as 'forest land'. The amendments also allow forest land, up to 100 km near India's borders, to be appropriated, without central approval, for "strategic and security" purposes. The primary criticism is that these amendments do not really contribute to regenerating natural forest, but rather incentivise afforestation for commercial ends. What is worrying is that the parliamentary committee, despite its statutory privileges, has not expressed any opinion or suggestion on the way forward. Grooming private forests might look good in theory but expecting them to be a permanent carbon stock is wishful thinking given that strong market incentives exist to use them as 'carbon credits'. While new climate realities might necessitate changes to the way conservation laws are interpreted, these must be backed by rigorous scientific evidence.

- While climate realities may require changes to conservation laws, these changes should be supported by rigorous scientific evidence.

Forest Conservation Laws in India

Law	Purpose and Key Provisions
Indian Forest Act, 1927	<ul style="list-style-type: none"> • Provides an overarching framework for forest management in India. • Establishes three categories of forests: reserved forests, protected forests, and village forests.
Wildlife Protection Act, 1972	<ul style="list-style-type: none"> • Single most significant statute on wildlife conservation in India. • Creation and legal protection of over five hundred National Parks and Sanctuaries termed protected areas (PAs).
Constitution of India	<ul style="list-style-type: none"> • Article 48-A (1976): The State shall endeavor to protect and improve the environment and safeguard forests and wildlife. • Article 51-A(g) (1976): Fundamental duty of citizens to protect and improve the natural environment, including forests, lakes, rivers, and wildlife.
The Forest Conservation Act, 1980	<ul style="list-style-type: none"> • Safeguards India's forests and regulates utilization of forest resources by industries and forest-dwelling communities. • Covers resources like timber, bamboo, coal, and minerals.
The Environment Protection Act, 1986	<ul style="list-style-type: none"> • Empowers the Central Government to take necessary measures for environmental protection and preventing environmental pollution. • Grants power to issue directions, including closure or regulation of industries and services causing environmental harm.
The Forest Rights Act, 2006	<ul style="list-style-type: none"> • Protects the rights of tribal and forest-dwelling communities dependent on forests for their livelihoods. • Recognizes and secures individual and community rights over forest lands and resources.
The Biological Diversity Act, 2002	<ul style="list-style-type: none"> • Enacted to comply with the United Nations Convention on Biological Diversity 1992. • Aims to conserve biological diversity, promote sustainable use, and ensure equitable sharing of benefits arising from biodiversity. • Establishes a three-tier structure of authorities: National Biodiversity Authority (NBA), State Biodiversity Boards, and Biodiversity Management Committees at the local level.

Challenges Associated with Forests

- **Shrinking Forest Cover:** The current forest cover falls short of the recommended 33% set by the National Forest Policy, leading to concerns about ecological stability. The need to protect and expand forests is vital to maintain a healthy environment.
- **Resource Access Conflict:** Conflicts arise between local communities and commercial interests like pharmaceutical or timber industries, as they compete for access to forest resources. These conflicts can lead to social tensions and violence, making it crucial to find a balance between conservation and resource utilization.
- **Climate Change Impact:** Forests face disruptions due to climate change, such as insect outbreaks, invasive species, wildfires, and storms, which affect forest productivity and species distribution. By 2030, a significant portion of India's forests could experience the effects of rising temperatures and climate change.

Tree and Forest Cover

Tree cover and forest cover are not the same. **Tree cover** includes all areas with trees, whether they are part of a forest or not. On the other hand, **forest cover** specifically refers to areas with dense trees covering more than 10% of the land and with an area of more than 1 hectare. This means that every forest cover is also tree cover, but not all tree cover qualifies as forest cover.

Key Finding of Forest Report 2021

- **Tiger Corridors and Reserves:** The forest cover in tiger corridors increased by 15 sq km (0.32%) between 2011 and 2021 but decreased by 22.6 sq km (0.04%) in tiger reserves. Over the last decade, forest cover increased in 20 tiger reserves and decreased in 32.
- **Increase in Forest and Tree Area:** The forest and tree cover in India increased by 1,540 sq km over the past two years. India's forest cover is now 7,13,789 sq km (21.71% of the country's geographical area), an increase from 67% in 2019. Tree cover also increased by 721 sq km.
- **States with Highest Increase in Forest Cover:** Telangana (3.07%), Andhra Pradesh (2.22%), and Odisha (1.04%) have shown the highest increase in forest cover.
- **States with Loss in Forest Cover:** Five states in the Northeast, namely Arunachal Pradesh, Manipur, Meghalaya, Mizoram, and Nagaland, have shown a loss in forest cover.
- **States with Highest Forest Area:** Madhya Pradesh has the largest forest cover in the country, followed by Arunachal Pradesh, Chhattisgarh, Odisha, and Maharashtra in terms of total forest area.
- **Forest Prone to Fires:** 46% of the forest cover in India is prone to forest fires, with varying degrees of vulnerability.
- **Impact of Climate Change on Forests:** By 2030, 45-64% of forests in India will experience the effects of climate change and rising temperatures. Forests in almost all states, except Assam, Meghalaya, Tripura, and Nagaland, will be highly vulnerable climate hotspots.

Status of Forests in India

According to the **India State of Forest Report-2021**, the country has seen a positive increase in forest and tree cover, growing by 2,261 square kilometers since 2019.

- Currently, India's total forest and tree cover amounts to 80.9 million hectares, covering approximately 24.62% of the country's geographical area.
- Some states and union territories have made significant efforts in forest conservation, with 17 of them having more than 33% of their area under forest cover.
- Notably, Madhya Pradesh leads the pack with the largest forest cover, followed by Arunachal Pradesh, Chhattisgarh, Odisha, and Maharashtra.

- **Mangroves:** India's total mangrove cover is 4,992 sq. km, with Odisha, Maharashtra, and Karnataka showing the highest increase in mangrove cover.
- **Total Carbon Stock:** The total carbon stock in India's forests is estimated at 7,204 million tonnes, showing an increase of 79.4 million tonnes since 2019.
- **Bamboo Forests:** Bamboo forests have experienced significant growth, increasing from 13,882 million culms in 2019 to 53,336 million culms in 2021.

Tree canopy density	2001	2021	Change
10% to 40% (Open)	2,58,729	3,07,120	4,391
Above 40%	4,16,809	4,06,669	-10,140
Total forest cover	6,75,538	7,13,789	38,251

- **Decline in Natural Forests:** There is a decline of 1,582 sq km in moderately dense or natural forests, despite an increase of 2,621 sq km in open forest areas. The report highlights concern about the degradation of forests in the country.
- **Decline in Forest Cover in Northeast:** The forest cover in the northeast has shown an overall decline of 1,020 sq km, with the region accounting for 98% of the total geographical area but only 23.75% of total forest cover. This decline has been attributed to natural calamities and anthropogenic activities such as shifting agriculture, development, and extensive deforestation.

The Forest (Conservation) Act of 1980

The Forest (Conservation) Act of 1980 is an important legislation in India aimed at safeguarding the country's forests and promoting reforestation efforts. Here are the key aspects of the Act:

- **Protection of Forests:** The primary objective of the Act is to protect India's forests from being exploited for industrial purposes. It serves as a measure to conserve and preserve these vital natural resources.
- **Regulation of Forest Resources:** The Act grants the Central government the authority to regulate the extraction of various forest resources, ranging from timber and bamboo to coal and minerals. This control extends to both industries and forest-dwelling communities.
- **Protection Criteria:** Initially, the Act offered protection only to areas that were officially designated as 'forest' in the records of the Central or State governments. This limited the scope of protection to specified forested areas.
- **Expanding Protection:** A significant milestone in the Act's implementation came through a landmark Supreme Court judgment in the TN.Godavarman Thirumulpad v Union of India (1996) case. This judgment broadened the protection offered under the Act.
- **Inclusion of Dictionary Definition:** As per the Supreme Court ruling, areas that meet the 'dictionary' meaning of forests are now protected, even if they have not been officially notified as forests in government records or historical documents.

What is the Need of Amendment?

The amendment seeks to address several key aspects related to India's forest policy of 1988:

- The current policy aims to have approximately one-third of the country's geographical area under forest cover. However, the actual extent of forest cover falls short of this target, with only around 21% of the land falling under forested areas. When including tree cover outside of recorded forest areas, plantations, and orchards, the total coverage increases to about 24%.
- One of the primary reasons for the amendment is to **improve tree cover and enhance the country's carbon sink capacity**. To achieve this, the proposed amendment would allow private parties to retrospectively designate private plantations or reforested lands as forests. Currently, such private planters may lose their rights over the land due to the legal distinction between forests and plantations.
- The amendment seeks to **incentivize private parties** to participate in the development of plantations in degraded forests or the restoration of tree patches. By recognizing these efforts as part of the forest cover, the amendment aims to boost the overall tree cover in the country and strengthen India's capacity to sequester carbon.
- Additionally, the proposed amendment aims to **regulate and curb undesirable actions by the states**. Currently, some states are allocating forest tracts that were meant for plantations to companies for mining operations. The amendment would address such misallocation issues and ensure that forest tracts are used in accordance with the intended purpose of promoting forestry and conservation.

Objectives of the Forest (Conservation) Amendment Bill, 2023

Definition and Demarcation of Forests

- Provide a clear and comprehensive definition of forest.
- Establish criteria for demarcating forest areas.

Definition and Demarcation of Forests

Renaming of the Act

- Change the name of the Act from Forest (Conservation) Act to Van (Sanrakshan Evam Samvardhan) Adhiniyam, which translates to Forest Conservation and Augmentation.

Renaming of the Act

Applicability of the Act

- Specify that the Act will apply only to lands officially notified as forest in government records on or after 1980.

Applicability of the Act

Exemptions and Strategic Projects

- Exempt forest land located within 100 km of international borders and intended for strategic projects of national importance.
- Exempt land ranging from 5 to 10 hectares for security and defense projects.

Exemptions and Strategic Projects

Encouraging Reforestation and Carbon Sink Development

- Address the issue of disincentives faced by private parties interested in developing plantations in degraded forests or restoring tree patches.
- Incentivize reforestation efforts and support India's commitment to developing a carbon sink of three billion tonnes by 2030, as per its obligations under the Paris Agreement.

Encouraging Reforestation and Carbon Sink Development

Issues & Criticisms of the Forest (Conservation) Amendment Bill, 2023

Removing the Forest Protection

The amendment Bill limits the applicability of the FC Act to only officially recorded 'forest' lands, excluding areas with forest-like characteristics that are not notified as such.

- This could result in the removal of the Act's protection from millions of hectares of such land.
- Approximately 28% of India's forest cover, equivalent to 197,159 sq km, falls under this category.

Freeing up the Land

- The Bill aims to achieve the objectives of building forest carbon stock and promoting afforestation by restricting the FC Act's scope.
- This would release land that is currently categorized as unrecorded forests.

No Specific Conditions for Denying Deforestation Permission

- The environment ministry does not lay down specific conditions for out rightly denying permission for deforestation in the context of development projects.
- This lack of clarity can lead to potentially harmful practices, such as planting mangroves on mudflats or converting grasslands and open natural ecosystems for solar parks.

Beyond Compensation

- The impacts of development projects on livelihood, biodiversity, hydrology, and climate cannot be adequately compensated through compensatory afforestation alone.
- The consequences of these projects go beyond mere financial compensation.

Affecting Indigenous Communities

- The review of the FC Act should consider concessions for land traditionally controlled by indigenous and forest communities.
- The diversion of forest land for development projects has eroded the scope for their consent, and extensive plantations on their dependent lands may proceed without their say.

Choosing Plantation over Forests

- Natural forests provide a range of ecosystem services crucial for the survival and well-being of numerous species.
- Man-made plantations lack the same level of ecological richness and direct livelihood support for millions of people.

Opposition and Criticism

- Northeast States' Opposition: Some northeastern states opposed the use of forest land for defense purposes without their consent.
- Environmental Groups' Concerns: Environmental organizations criticized the removal of Central protection for deemed forests and the potential introduction of tourism in these areas, which could endanger biodiversity and forest conservation efforts.
- Name Change Controversy: The proposal to change the name of the Act to Van (Sanrakshan Evam Samvardhan) Adhiniyam faced objections for being non-inclusive and excluding certain regions' populations.

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