

## STEPPING UP THE FIGHT FOR FOREST CONSERVATION: ANALYZING THE IMPACT OF THE FOREST CONSERVATION AMENDMENT BILL 2023

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### ABSTRACT

*To improve the preservation, restoration, and sustainable management of forest resources, India has proposed the Forest (Conservation) Amendment Bill, of 2023. As carbon sinks and sources of livelihood for people, forests play a critical role in tackling biodiversity and climate problems, and this bill recognizes this. Certain provisions of the bill, such as the redefining of non-forest functions and the exclusion of particular properties from the Forest Conservation Act, have raised questions. These sections raise concerns about the commercialization of certain places, potential harm to wildlife, and the deterioration of ecological sensitivity in those areas. The measure also affects people who live in forests because it transfers authority for making decisions from local communities to state governments. There is a need to strike a balance between the usage of private land and the protection of customary rights and long-term forest dwellers, even though the bill's purpose of increasing forest cover is consistent with India's desire to sequester carbon. Concerns concerning the sustainable use of natural resources are also raised by the bill's centralized authority and the absence of checks and balances. The proposed revisions are a step in the right direction towards sustainable development and forest conservation, but more work is required to ensure that local communities' rights and all forests are fully protected.*

### INTRODUCTION

The Forest (Conservation) Amendment Bill, 2023, is a piece of proposed legislation that represents an indication of hope for the protection of the environment. It seems a significant and timely endeavor to combat rising deforestation rates and the requirement to save the forest environment on our planet.

In addition to being essential for people's lives, homes, and livelihoods, forests are also essential for addressing the biodiversity and climate crises. After the oceans, forests are the biggest repositories of carbon because they capture this greenhouse gas from the atmosphere

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and store it above and below ground<sup>1</sup>. Therefore, it should come as expected that destroying or cutting down our forests causes massive carbon emissions that exacerbate the climate issue.

Then again storing a significant quantity of carbon in the vegetation and soil and supporting people's livelihoods, forests serve crucial roles in the conservation of biodiversity around the world. In addition to containing half of the world's biodiversity and making large contributions to terrestrial carbon stocks, forests also support human populations by offering a variety of goods and services. However, these woods are routinely overused, which causes the loss of forest cover and eliminates their capacity for providing ecological services.

Through a wide range of laws and actions, the bill aims to strengthen the preservation, restoration, and sustainable management of forest resources and prevent the overuse of forest resources. This bill seeks to improve the resilience and ecological balance of the environment by addressing the complex challenges underlying forest protection. The article aims to examine the bill's prospects as well as how it has affected key parties, like local communities. The impact of the bill's highlighted clauses and their impacts are also covered in the study. The difficulties the law faces and the criticism are covered as well.

## GOALS AND UNDERLYING FACTORS

Large tracts of forest land were set aside as reserved and protected forests after independence and placed under the control of state forest departments. Many unforested areas were left out, but 'forest' lands also included places with no standing forests. Nearly 28% of India's recorded forest cover is not categorized as "forest," per the State of Forests Report 2021. Extensive ground surveys were planned to be used to identify the abnormalities; however, the process was never finished. The SC halted tree-cutting nationwide in 1996 and decided that the FC Act would apply to all parcels of property that were either recorded as forests or resembled forests. While preventing the exclusion of wide regions previously used for agriculture or homesteads, this broad edict assisted in slowing down excessive deforestation.

Since the enactment of the Forest (Conservation) Act, of 1980, there has been a sense that the process of diverting forest land must be made simpler<sup>2</sup>. However, this has now become

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<sup>1</sup> Ravindranath, N.H., Chaturvedi, R.K. and Murthy, I.K., 2008. Forest conservation, afforestation and reforestation in India: Implications for forest carbon stocks. *Current Science*, pp.216-222.

<sup>2</sup> Singh, C.D., 2009. Obtaining Forest Clearances under the Forest (Conservation) Act, 1980. *India Infrastructure Report 2009*, p.66.

essential to address the shift in the ecological, social, and environmental regimes and policies linked to the protection and development of forests. The aforementioned amendment bill was introduced to make the Forest (Conservation) Act of 1980's provisions more practical and applicable to the current situation.

## **THE ESSENTIALS OF THE BILL AND THE IMPACT ON KEY STAKEHOLDERS**

The Forest (Conservation) Amendment Bill, 2023 was introduced in the Lok Sabha and it aims to amend the Forest conservation act, 1980 striving to advance sustainable development while protecting India's forests and biodiversity. It is intended to broaden the Act's scope while taking into account India's goal to increase forest cover to create an additional 2.5–3.0 billion tonnes of CO<sub>2</sub> equivalent in carbon sinks by 2030.

**Preamble-** the bill includes a new preamble that acknowledges the significance of forests in maintaining ecological balance and reaching national aims for net-zero emissions.

**Definition of forest-** Many issues relating to conservation can be resolved by defining the term "forest." Even the Forest Conservation Act (FCA), which came into effect on October 25, 1980, did not seek to do this. In **T.N. Godavarman v. Union of India**<sup>3</sup>, the Hon. Supreme Court expanded the application of the FCA beyond "notified forests" to include any lands listed as forests in any government document. The Court ruled that the term "forest" must be understood in its dictionary-defined sense and that the term "forest land" also refers to any place designated as a forest in official records. The amendment aims to create an exception to the T.N. Godavarman vs. Union of India ruling by limiting the definition of the forest to only include areas recorded as 'forest' as of or after October 25, 1980.<sup>4</sup>

**Exclusion of specific lands-** under section 1A of the bill, which covers land that will no longer be subject to FCA following the amendment. Forests up to 10 hectares in size that are proposed to be used for security-related infrastructure are also included, as are forests up to 10 hectares in size that are proposed to be used for strategic linear projects of national importance within 100 kilometers of international borders<sup>5</sup>. By default, the FCA no longer applies any regulations to these forest lands. This is particularly alarming because substantial forests in the Himalayan and North Eastern regions which are home to endemic species hotspots and are

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<sup>3</sup> (1997) 2 SCC 267

<sup>4</sup> The forest conservation (amendment)bill 2023, Section 1A

<sup>5</sup>The forest conservation (amendment)bill 2023, Section 2

close to international borders—will be exempted. Without an assessment and mitigation plan, clearing these forests will not only endanger biodiversity but also make ecologically and geologically sensitive areas more vulnerable to inefficient infrastructure development and severe weather.

**Re-defines non-forest purpose-** The scope of "non-forest use" has been expanded by amending section 2 of the Principal Act. The creation of zoos and safaris, silvicultural operations, eco-tourism facilities included in the Forest Working Plan, and any other similar objectives that the Central Government may specify are now included in the list of activities that are no longer deemed to be "non-forest" purposes. The Silviculture practices on this list have the potential to harm native species, alter natural ecosystems, and decrease soil quality over time.<sup>6</sup> This amendment also completely relaxes restrictions on the private parties' ability to engage in lucrative activities like safaris, zoos, and linear projects that harm indigenous forests, animals, and livelihoods. Environmentalists have long criticized the business-oriented ecotourism concept that uses exclusive protected areas.

Re-defining the non-forest purpose is bound to promote the commercialization of forests and cause harm to the wildlife, as areas outside of the protected forests are also considered to support essential biodiversity, for example, a significant population of Bengal tiger is found outside the protected areas.

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### **IMPACTS OF THE BILL ON FOREST DWELLERS**

When the FRA was implemented, forest dwellers were granted recognition of their rights to the land. The new guidelines effectively eliminate the need for gram sabhas to approve the removal of a forest before the state government. Before, developments on forest land needed the approval of the gram sabhas to move further. The state government is now in charge of making sure that the paperwork is in order and that the communities that live in forests have given their permission.

Through the gram sabhas, the 2006 Forest Rights Act granted communities ownership over forest resources, including the right to "protect, regenerate, conserve, or manage" any forest land to which they had formerly had access. According to the Act, project proposals must first

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<sup>6</sup> Shankar, P. (2023) [commentary] *the underbelly of the Forest Conservation (amendment) Bill 2023*, Mongabay. Available at: <https://india.mongabay.com/2023/04/commentary-the-underbelly-of-the-forest-conservation-amendment-bill-2023/>

receive the necessary information from gram sabhas and receive their informed agreement. The cooperation and involvement of the local communities is needed for the plantations and the conservation of the forest.<sup>7</sup> Involving local populations in decision-making is essential for successful forest conservation since many local groups rely on forest resources for their livelihood and have a broader perspective and knowledge about forest management.

### **HOW THE BILL REORGANISES CENTRE- STATE INTERACTION**

Forests were included as a concurrent topic to India's constitution in 1976 with the introduction of the 42nd Amendment. Because up until this point, forests were either managed as land or agricultural plantations, both of which are state subjects, the Union government was allowed to implement the Forest Conservation Act, of 1980 and regulate state actions. The legal authority of the Union government was further expanded by the Supreme Court's 1996 ruling.

State governments can recover control of areas that may have a dictionary definition of forests but are not recorded as such in any official records by freeing land for plantations or reducing the FCA's application. To develop carbon sinks and contain them as compensatory adjustments, state agencies and commercial players may capitalize on these areas.

### **THE WAY FORWARD**

Forests were added to the Concurrent List as a subject under Schedule VII of the Constitution by the 42nd Constitutional Amendment. To address the current climate crisis, the loss of forests, biodiversity, and livelihoods, decolonization and democratic reform of forest governance are required. The measure works to address those issues and make sure the prior bill's restrictions have been lifted. A strong and people-centered paradigm for the protection of the environment, forests, and customary rights must be the goal of legislative initiatives.

The Bill aims to enlarge the scope of the 1980 Act in consideration of India's goal to increase forest cover to create an additional 2.5–3.0 billion tonnes of CO<sub>2</sub> equivalent in carbon sinks by 2030.<sup>8</sup> This can be accomplished by planting trees on private property, but the current legal framework makes it difficult to encourage private landowners to increase their tree cover.

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<sup>7</sup> Pokharel, B.K., Branney, P., Nurse, M. and Malla, Y.B., 2007. Community forestry: Conserving forests, sustaining livelihoods and strengthening democracy. *Journal of Forest and Livelihood*, 6(2), pp.8-19.

<sup>8</sup> *New bill for forest conservation (2023) Economic and Political Weekly*. Available at: <https://www.epw.in/journal/2023/15/letters/new-bill-forest-conservation.html>

However, it is equally crucial to protect the rights of long-time forest residents and prevent excessive private-sector use of the area's natural resources.

### **SIGNIFICANT ISSUES WITH THE BILL**

The legislation's fundamental goal, which is to safeguard and conserve India's forests, is undermined by the proposed revisions. The Bill limits the FC Act's applicability by releasing land that is now imprisoned as unrecorded forests. Instead of concluding the physical demarcation procedure, the amendment Bill attempts to restrict the FC Act's applicability to just territory that is recorded as a "forest." As stated earlier the bill also has consequences of its exemption to certain lands under section 1A and FCA will no longer be applicable to it, and the north-east and Himalayas are the regions losing the protective cover under FCA.

Section 3C of the bill gives power to the central govt to issue direction for the implementation of this bill and aims to keep the power centralized.<sup>9</sup> The bill grants a broad range of authority for "any other like purposes, which the Central Government may, by Order, specify." The proposed bill's intent is defeated by its confusing phrasing because it is not only regressive but also devoid of any checks and balances to safeguard natural resources.

### **CONCLUSION**

The proposed revisions to the Forest Conservation Bill of 1980 are a positive move in light of this situation because they exempt forest areas utilized for defense and security purposes from the Act's coverage. This will make it possible to quickly complete several roads and other infrastructure projects, particularly in the border regions.

In conclusion, the proposed legislation known as the Forest (Conservation) Amendment Bill, 2023 aims to preserve and safeguard India's forests while advancing sustainable development. The measure strengthens the protection, restoration, and sustainable management of forest resources in an effort to combat the problems of deforestation, biodiversity loss, and climate change. However, the measure has flaws that undermine its attempt to protect and conserve forests. According to a recent assessment by the Intergovernmental Panel on Climate Change (IPCC), preserving existing ecosystems rather than attempting to restore ecosystems that have

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<sup>9</sup> *Apprehension over move to amend forest conservation act* (no date) *Morung Express*. Available at: <http://morungexpress.com/apprehension-over-move-to-amend-forest-conservation-act>

already been damaged will help lessen the impact of the climate crisis, and the forest conservation amendment bill focuses on that direction and will aid in the conservation of forest.

