



IS FOREST CONSERVATION AMENDMENT ACT, 2023, A THREAT TO THE TRIBAL COMMUNITIES IN MIZORAM?

Mahek Vejhurani*

ABSTRACT

This paper provides an overview of the impact of the Forest Conservation Amendment, 2023, on the tribal communities in Mizoram. The paper first sheds light on the natural significance of the region of Mizoram and the traditional land management system consisting of collective ownership, jhum cultivation, etc. It then provides information about the pre-colonial and colonial history of the tribal land. It then discusses the contemporary unique provisions applicable to the state of Mizoram and legislations that protect the land rights of the tribes. It also highlights the autonomy and power vested with the institutions such as gram Sabha, ADCs (Autonomous District Councils) and that of the state in deciding upon matters of land. And most importantly, the introduction of the Forest Conservation Amendment Act, 2023 and the detailed analysis of its impact on the Community of tribal population in the State. It describes how the amendment contravenes the provisions of protection laws, and it also describes the major role played by Civil society and political parties such as the Mizo National Front, Joint Civil Society Mizoram, etc., fighting for the cause of tribes. It is also noted that several petitions have been filed against the amendment, and the Supreme Court has provided Interim guidelines for the same. This paper aims to understand the interplay of legislative actions and the civil society and judiciary when legislations counter the constitutional safeguards, precedents and previous legislations themselves and endanger the rights of citizens.

Keywords: Forest Conservation Amendment Act, Mizoram, Tribal Communities, Tribal Land Rights.

*BA LLB, SECOND YEAR, PRAVIN GANDHI COLLEGE OF LAW.

INTRODUCTION

Mizoram is one of the significant states of Natural importance in India. It is not only abode to multiple endemic species but also to the tribal communities, which constitute the majority of Mizoram's population, 94.4% of Mizoram's population being from the Scheduled Tribe community (ST). These communities are highly dependent on the natural resources, mainly forests in this region, for their livelihood. For centuries, the tribes of the state have developed sustainable relationships with their forest ecosystems through traditional practices such as jhum cultivation, community-based resource management, and customary law systems focused on collective property and intergenerational stewardship. Apart from these traditional practices, Today, the constitutional provisions also promote the autonomy of the north-eastern states and Mizoram specifically through the 6th Schedule,¹ Article 244,² Article 371g³ for Mizoram state's autonomy. Also, various laws such as the FRA,⁴ 2006, Environment (Protection) Act,⁵ 1986 Forest Conservation Act,1980, defends ecological resources and hence protects the economic survival of indigenous communities. However, the new amendment to the Conservation Act,⁶ 1980, that is the Forest Conservation Amendment Act,⁷ 2023, endangers the autonomy, natural biodiversity and contradicts some of the provisions of the above acts.

The ramifications are not simply legal details, but rather existential concerns about cultural survival, livelihood security, and environmental sustainability. In addition, Mizoram's location in the globally recognised Indo-Burma biodiversity hotspot adds another complication, given that the state is home to many endemic species and ecosystems preserved through traditional tribal conservation practices. This amendment has sparked massive opposition against this amendment. This paper discusses the adverse impact of this amendment in detail and the provisions of protection acts which are violated due to the amendment, and it also describes how these changes undermine the autonomy of the state.

¹ Constitution of India 1950, Sch. 6

² Constitution of India 1950, art.244

³ Constitution of India 1950, art.371g

⁴ Forest Rights Act 2006

⁵ Environment (Protection) Act 1986.

⁶ Forest conservation Act 1980

⁷ Forest conservation (amendment) Act 2023

HISTORICAL BACKGROUND

Traditional tribal societies in Mizoram, as well as in other parts of northeast India, practice collective land ownership where land belongs to the entire community or clan rather than individuals. In the pre-colonial period, land in Mizoram was owned by the community rather than individuals and managed under the tribal chief's authority. This system, known as the "Chieftainship," vested significant power in the chief, who allocated land for cultivation and habitation.⁸

Jhum cultivation, prominent in North-eastern tribes, is a major cause of collective ownership as it requires rotational use of lands. Jhum cultivation consists of cultivating the land for 1-3 years and then abandoning it by way of burning. This is followed by a fallow period for 10-20 years, which allows the land to regenerate its fertility, and during this period of time, no cultivation takes place on this piece of land. To maintain sustainable rotation cycles, Jhum cultivation requires access to multiple plots of land scattered across a large territory - typically 10-15 times more land than what's actually under cultivation at any given time, including not only the land which is to be cultivated but also the fallow land. A jhum territory typically encompasses 50-200 hectares per family, with only 2-5% under active cultivation at any time. The remaining 95-98% includes fallow plots in various stages of forest regeneration (which are essential for the rotation cycle), mature forests for timber and non-timber forest products, watersheds, and sacred groves. This shows that the tribes are heavily dependent on the forests for purposes such as cultivation over cultivable land and for natural resources from forests; their entire means of livelihood revolves around these forest tracts. This requires recognised rights not just to individual plots, but to entire watersheds, forest areas, and grazing lands that support the integrated farming system. Without control over this broader territory, the rotational cultivation system cannot function sustainably, as families will only possess a small piece of cultivable land solely which becomes a barrier for long term fallow period thereby endangering the sustainability of the land and their means for livelihood, which is why tribal land rights recognition must account for the complete landscape rather than just the actively farmed plots.

⁸ Samson Sithhou, et al. Early British Tribal Policy in India with Special Reference to North East Frontier Region. (2024). 44(1), Library Progress International
<<https://bpasjournals.com/libraryscience/index.php/journal/article/view/4203>> accessed 21st September 2025.

In the colonial era, the chieftainship system was given a formal status under Col. J. Shakespear's Land Policy (1898),⁹ which gave authority to chiefs to manage land in the Lushai Hills District, that is, present-day Mizoram. However, this policy aimed to establish indirect British control by way of holding onto the traditional system rather than bringing about direct land ownership changes. Their main aim was the extraction of revenue through this indirect control, which later became the cause for the Tribes' exploitation. Owing to this attitude of the Britishers towards the Tribes, various tribal uprisings transpired nationwide by various tribal groups in various regions. As a result of the policy reform, the Indian Forest Act¹⁰ was enacted in 1927, recognising for the first time the rights and entitlements of tribal communities and workers. These entitlements were the right to cultivate forest land, the right to extract timber, and the right to access and use forest resources to produce customary handicrafts. The Act also specified that certain areas were designated "protected forest area" and provided that these would be conserved.

CONSTITUTIONAL AND STATUTORY SAFEGUARDS

5th & 6th Schedule:¹¹ Following India's independence, it was decided that all tribal regions would be covered under special provisions of the Constitution as contained in the 5th and 6th Schedules of the Constitution. The Fifth Schedule is outlined in Article 244 (1)¹² and concerns scheduled tribal areas in all the states except for the states of Assam, Meghalaya, Tripura, and Mizoram. The Sixth Schedule is outlined in Article 244(2) and provides for the establishment of Autonomous District Councils (ADCs) in respect of land and natural resources in bipolar tribal areas in these four northeastern states. Mizoram has three such ADCs, namely, the Chakma Autonomous District Council (CADC), Lai Autonomous District Council (LADC), and Mara Autonomous District Council (MADC). These councils have legislative authority and can make regulations for the area which is designated to them by the governor's consent. Moreover, any central or state regulation has to go through the president's approval before it can be pursued to be enacted with respect to any of these autonomous areas. This constitutional arrangement aims to serve as a buffer against laws which would violate or become an impediment to any tribal rights in these regions.

⁹ Shakespear's Land Policy 1898

¹⁰ Indian Forest Act 1927

¹¹ Constitution of India 1950, Sch. 5 and Sch.6

¹² Constitution of India 1950, art 244

Article 371G:¹³ This is a provision of the Indian Constitution, which was inserted by the 53rd Constitutional Amendment Act of 1986, that provides certain constitutional safeguards for Mizoram. In particular, Article 371G provides that federal legislation that relates to any customs of the Mizo people related to religious practice, any customs of the Mizo people related to social practice, whether moderate or major, laws that relate to any indigenous people, the customary or traditional adjudicative systems of the customs of the people, and rights related to land in Mizoram, must not be given effect unless there has been a prior resolution of a legislature. This constitutional safeguard is designed to provide an overall basis of lingering protection for the distinctive character of Mizo culture and the traditional law of the Mizo people.

BROADER INTERPRETATION OF FOREST CONSERVATION ACT, 1980 THROUGH T.N. GODAVARMAN THIRUMULKPAD VS UNION OF INDIA & ORS.

The Forest Conservation Act,¹⁴ 1980 was a piece of legislation enacted by the central government to protect forests and prevent the unrestricted conversion of forest land for the use of non-forestry activities (these are defined as "the breaking up or clearing of any forest land or portion thereof for any purpose other than reafforestation"). However, the Act did not supply a clear definition of "forests," which resulted in large-scale activities of deforestation.

In "T.N. Godavarman Thirumulkpad vs. Union of India & Ors"¹⁵ (1996), the Supreme Court later provided an overarching definition of "forests" as it relates to the meaning of "forests." This case arose in 1995 when the environmentalist T.N. Godavarman Thirumulkpad filed a petition regarding the illegal clearing of forests and the illegal harvesting of timber. The Court determined that forest should be defined as it is commonly defined in the dictionary.

The Supreme Court found that this definition includes "all forests", which would have the legal definition of "reserved," "protected," or in other statuses as to forest status, under the meaning of "forest land" under Section 2(i) of the Forest Conservation Act.¹⁶ To clarify, the definition of "forest land" under Section 2 encompasses not only "forests," but also lands that have been classified under a Government gazette as "forests", regardless of an individual's title over these lands. The Court argued that the provisions of the Forest Conservation Act, 1980, by law on

¹³ Constitution of India 1950, art.371g

¹⁴ Forest conservation Act 1980

¹⁵ *T.N. Godavarman v UOI* (1996) (2) SCC 267

¹⁶ Forest conservation Act 1980, s 2(i)

forest conservation and conservation-related questions applied to all "forests" as stated above, despite who owned the lands or classified the forest.

The Forest Rights Act of 2006 (FRA): The Forest Rights Act (FRA)¹⁷ 2006 recognises and grants forest rights to Scheduled Tribes and traditional forest dwellers. It aims to correct historical injustices, ensure livelihoods, and promote sustainable forest conservation through community empowerment. The Act provides land tenure rights (up to 4 hectares), forest resource access, and community forest management rights. One of the most significant provisions of this Act is section 4 clause (2) (e) that acknowledges the consent of the Gram Sabhas as important for the use of protected forest areas that affect tribal land rights.

This provision states about the Acknowledgment and granting of forest rights to forest dwelling Scheduled Tribes and other traditional forest communities- According to Section 4 clause (2) of this act, the Forest rights that are acknowledged under this Act within critical wildlife habitats of National Parks and Sanctuaries can be changed or moved later, provided that, with regards to protected areas for the sole purpose for wildlife conservation, no holders of forest rights shall be moved or have their rights altered, unless and until all of the conditions outlined are met, including: sub-clause (e) that mandates Written confirmation from the Gram Sabhas (village councils)which need to give their free, prior, informed consent regarding the proposed relocation and the level of compensation provided.

Environmental Clearance Mandate: The legislation that requires environmental clearance (EC) for development projects in India is the Environment (Protection) Act, 1986¹⁸ and it is this statute that empowers the Central Government to manage environmental effects. The Central Government exercises this authority through the Environmental Impact Assessment (EIA) Notification,¹⁹ 2006, which the Government issued under the Act. Essentially, this legal arrangement enables projects to receive approval and assess likely impacts on the environment, society, and public health before commencing any in-construction activities. It involves screening, scoping, public consultation, and appraisal to assess a project's environmental impact and recommend clearance.

The overview of the above acts and statutory provisions was important to understand how has FCAA, 2023 contradicts some of these provisions and how these amendments have

¹⁷ Forest Rights Act 2006, s 4(2)(e)

¹⁸ Environment (Protection) Act 1986.

¹⁹ Environmental Impact Assessment (EIA) Notification 2006

further complicated the situation of tribes in securing their land rights and endangered their means of livelihood.

FOREST CONSERVATION AMENDMENT ACT,2023

The Forest Conservation (Amendment) Act,²⁰ 2023 is an amendment of the Forest Conservation Act, 1980, in India, which was introduced on August 4, 2023, by the Central Government. The amended Act's name would be the Van (San Rakshan Eevam Samvardhan) Adhiniyam, 1980, to better express the original legislation's operation.

The amended Act has a preamble stating the commitment of India to achieve Net Zero emissions as well as to increase forest cover, clarifying that the Act applies to areas designated as forests by the Act,²¹ and broadens the types of activities that may be permitted in areas designated as forests if the projects are in the national interest.

As set out in Article 371g, any Central legislation needs to be approved by way of a resolution of the state legislature before it can apply in that state. The first to oppose the Act was the Mizoram Assembly, which adopted a resolution on August 22, 2023, for the express purpose of opposing the FCAA 2023 and defending the "rights and interests" of the residents of Mizoram.

After a change in government Zoram People's Movement (ZPM) government, the Mizoram Assembly reversed its previous resolution on August 27, 2025 and adopted the FCAA under the current Chief Minister, Lalduhoma, who claimed adoption was necessary since the original 1980 Act was already in force in the state.

This sparked state-wide opposition and protests by major NGOs, political parties and civil societies owing to the adverse impact on the tribal rights.

HOW DOES FCAA, 2023, IMPACT TRIBAL RIGHTS IN MIZORAM?

Narrow Definition of "Forests": The definition of forests as per broad interpretation of the Forest Conservation Act of 1980 in *T.N. Godavarman Thirumulpad vs UOI*, forests include 'reserved' forests, forests in government records as well as any other forest tracts which helped those indigenous communities inhabiting the "unclassed" forests which are neither reserved

²⁰ Forest conservation (amendment) Act 2023, s 1

²¹ Forest conservation (amendment) Act 2023, Preamble

nor present in government records however this definition is narrowed down in FCAA²² as it reduces coverage to two categories²³ of forests. Namely,

1. Regions that have been officially declared or notified as forests under the Indian Forest Act of 1927 or other applicable laws.
2. Areas that have been recorded as forests in official government records post-October 25, 1980.

This significantly undermines the protection of the deemed or unclassed forests, which further endangers the sole source of income of indigenous people residing in these regions.

Violation of Rights under FRA,2006: As per the Forest Rights Act, it is mandatory for the government to take consent from the Gram Sabha, which represents the tribes, in order to carry out any project of development in tribal areas.²⁴ However, as per the new amendments in the Conservation Act, forest land classified as 'deemed forests' or unnotified forest land can be diverted without Gram Sabhas' consent, thereby resulting in violation of their rights that are recognised under the Forest Rights Act²⁵ of 2006.

By removing the legal requirement for consulting forest-dwelling communities before diverting land, the act marginalises the tribes from the decision-making process of their own land and subverts their voices.

100-kilometre Exemption: The amendment provides for an exemption which states that "strategic linear projects of national importance and concerning national security" can be carried out in areas within 100km of international borders.²⁶ Since Mizoram's territory falls entirely within 100 kilometres of an international border, the exemption for "strategic linear projects of national importance and concerning national security" would apply to the entire state, placing its population in extreme danger. Strategic linear projects include lengthy infrastructure developments with elongated, continuous paths, such as roads, railways,

²² Forest conservation (amendment) Act 2023, s 1A (1)

²³ CJP Team, 'Forest Conservation Amendment Act, 2023: A challenge to Adivasi land rights and environmental protections' (Citizens for Justice and Peace, 10 Feb 2025) <<https://cjp.org.in/forest-conservation-amendment-act-2023-a-challenge-to-adivasi-land-rights-and-environmental-protections/>> accessed 21st September 2025.

²⁴ Geetanjay Sahu , "The Genesis, Process, and Implications of the Forest Rights Act, 2006," (2020) vol. 10, no.2, *Review of Agrarian Studies*

<http://ras.org.in/the_genesis_process_and_implications_of_the_forest_rights_act_2006> accessed 21st September 2025.

²⁵ Forest Rights Act 2006, s 4(2)(e)

²⁶ Forest conservation (amendment) Act 2023, s 1A(2)(c)(i)

pipelines, and transmission lines, that are critical for national importance, national security, or sustainable urban development.

Also, the FCAA introduces exemptions that allow the central government to bypass the process of obtaining the resolution from the state Legislative assembly for such projects, further undermining the power granted to the Mizoram state assembly under Article 371g. Further, the clause (viii) any other like purposes, which the Central Government may, by order, specify."; gives the central government discretionary power to bypass state consultation for projects it deems necessary.

Exemption from Environmental Clearance process: Moreover, the risk is amplified by how the amendment exempts some activities under the act, thus permitting the government to avoid standard forest clearance procedures related to border security and defence infrastructure, public utilities, and ecotourism activities in protected areas²⁷. The various legal mechanisms allow projects to gain approval and evaluate potential impacts on the environment, society, and public health prior to undertaking any construction activities. Process to systemically screen a project, scope impacts, have public consultation, and appraisal of the project for assessment of environmental impact and a recommendation for approval. However, this aspect of the provision under the act undermines this statement and severely affects the livelihoods of tribal people.

It is alleged that it also violates provisions of the UN Declaration on the Rights of Indigenous Peoples. UNDRIP specifies that Indigenous peoples have the right to free, prior, and informed consent for projects affecting their lands or territories (Article 32).²⁸ However, the FCAA sidelines the consent of the indigenous communities in this regard.

EXTENSIVE RESISTANCE AGAINST FCCA, 2023

Major protests in the state were led by the Mizo National Front (MNF), Zo Re-Unification Organisation (ZORO) and Joint Civil Society Mizoram (CJM), a coalition of several

²⁷ Forest conservation (amendment) Act 2023, s 1A (3)

²⁸ UN Declaration on the Rights of Indigenous Peoples 2007, Art.32

organisations. They believe that this new law, endorsed by the Mizoram government, is a "serious threat" to the state.²⁹

Vanramchhuangi, or Ruatfela Nu, is also a prominent social activist in Mizoram and has become one of the fiercest critics of the FCAA.³⁰ She sided with the MNF government when they announced their opposition to the Act, but felt betrayed when the ZPM government supported it. She and others who are part of the environmental movement organised a protest outside the Assembly House, holding signs that said, "Revoke FCAA," and "We do not want FCAA." Vanramchhuangi stated, The FCA 1980 was rationalised as a means of protecting forests, but the FCAA 2023 is temporary, economic-driven, and aimed at promoting forest land use - prioritising economic development over sustainability.

Several civil society organisations under the aegis of the Joint Civil Society of Mizoram (JCM) staged a peaceful demonstration in Aizawl to protest against the Forest (Conservation) Amendment Act (FCAA), 2023. However, when the day of the rally arrived on September 11, the energy of online activism struggled to translate into an on-ground movement.

Ultimately, the 2024 amendment legislation was subject to numerous petitions contesting it. One petition was Ashok Kumar Sharma, Indian Forest Service Petitioners (Retired) and others vs Union of India.³¹ The petitioners were primarily concerned with the Forest (Conservation) Amendment Act, 2023, which they believed 'diluted' the Court's definition of 'forest' that it provided in its order dated December 12, 1996, in *T.N. Godavarman v. Union of India*. A bench of Justices B R Gavai and K Vinod Chandran granted an interim order requiring the States and Union Territories to continue to follow the definition of "forest" defined in the 1996 *T.N. Godavarman* case, until forests can be defined in accordance with the 2023 rules. The Supreme Court also imposed an interim injunction on the Central government, as well as the States, prohibiting them from taking any action to diminish "forest land" anywhere in the country.

²⁹ 'Opposition parties term Forest Conservation Amendment Act a 'serious threat' to Mizoram', The Hindu, September 06, 2025 <<https://www.thehindu.com/news/national/mizoram/opposition-parties-term-forest-conservation-amendment-act-a-serious-threat-to-mizoram/article70018755.ece>> 21st September 2025.

³⁰ Kimi Colney, 'Environmentalists across India alarmed as Mizoram greenlights Forest Amendment Act' East Mojo September 4, 2025, <<https://eastmojo.com/mizoram/2025/09/04/environmentalists-across-india-alarmed-as-mizoram-greenlights-forest-amendment-act/>> accessed 21st September 2025.

³¹ *Ashok Kumar Sharma, Indian Forest Service (Retd.) and Ors. v Union of India and Ors* (2023) MANU/SCOR/159980/2023

There is widespread condemnation of the Forest Conservation Amendment Act, both within Mizoram and across India. The National Alliance of People's Movements, which is a collaboration of anti-globalisation activist groups in India, mentioned that after the Joint Parliamentary Committee validated the controversial Forest (Conservation) Amendment Bill, 2023, people, along with forest conservation groups and climate action groups, held peaceful protests in Delhi and 16 other states throughout the country.

CONCLUSION

The Forest Conservation Amendment Act of 2023 undoubtedly poses a severe threat to the tribal communities in Mizoram, eroding the precursors of their constitutional rights, traditional livelihoods, and cultural identity. The provisions of the Act, specifically the 100km border exemption and the vast discretionary power provided to the central government, directly violate the protections provided under Article 371G and erode fundamental consultation processes required for tribal self-governance. The Act, which rejects forest definitions and fails to respect processes for community consent, both undermines the spirit of the Forest Rights Act and endangers sustainable forest management practices that the indigenous communities of Mizoram have undertaken for generations. The widespread condemnation by civil society, anti-environmental activists like Ruatfela Nu, and ongoing court challenges like Ashok Kumar Sharma's petition at the Supreme Court indicate recognised concerns. While the law-making body views the amendment as necessary for development and national security, it has not taken into account the irrevocable cultural, ecological and constitutional sacrifices for states such as Mizoram. The Act represents a substantive shift from community-based conservation to control-based control, and undermines the hard-fought recognition of tribal rights and protection of the environment.