

## **Role of the Judiciary in the Implementation and Enforcement of Forest Laws**

1. It is both a privilege and a responsibility to be part of this crucial discussion at COP 29 focusing on the urgent need to protect the forests across the world.
2. India's forest accounts for 2% of the world forest area and according to the annual report 2023 of the Ministry of Environment, Forest and Climate Change, India has increased its forest area significantly over the past decade.
3. The judiciary plays a crucial role in not only interpreting forest laws but it plays an active role in ensuring that forest conservation laws are implemented, enforced, and respected.
4. As far as the legislative enactments are concerned, India has a comprehensive set of forest laws enacted to safeguard vital ecosystems. Indian Constitution is the mother of all enactments. In 1976, by way of 42<sup>nd</sup> Constitutional amendment, the Constitution mandated both the State as well as the citizens to endeavour to protect the forest and wildlife of the country. Under Article 48A, one of Directive Principle of the State Policy requires the State to protect and improve the

environment and to safeguard the forest and wildlife of the country. Article 51A(g) casts a duty on every citizen of India to protect and improve the natural environment, including forests, lakes and wildlife.

5. So far as the relevant forest enactments, are concerned, the Indian Forest Act 1927, the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980, i.e., Forest (Conservation) Act 1980, the Wildlife Protection Act 1972 and the Forest Rights Act of 2006, Environment (Protection) Act, 1986 and the National Environment Policy 2006 together form a comprehensive legal framework to conserve forests, prevent illegal logging and uphold the rights of forest-dependent communities.
6. The National Forest Policy 1988 was launched with the principal aim of ensuring environmental stability and maintenance of ecological balance including atmospheric equilibrium which is essential for the sustenance of all forms of life, i.e., plant, animal and human. Furthermore, India being a signatory to the Rio Declaration of 1992 has enacted the Biological Diversity Act, 2002.

7. Having laws on paper means little unless they are actively enforced. Therefore, the judicial bodies play a crucial role in ensuring that these laws are effectively implemented and complied with across all sectors of society, by government agencies to private corporations or local communities.
  
8. India was the third country in the world to setup a specialized Court in pursuance of the Stockholm Declaration of 1972 to exclusively deal with environmental issues. Under the National Green Tribunal Act 2010 the expert Tribunal by the name of the National Green Tribunal has been set up, having a Principal Bench in New Delhi and four Regional Benches covering the entire country. Each bench dealing with environmental cases comprises of one Judicial Member and an Expert Member, specialized in the field of environment. This Tribunal adjudicate all kinds of issues concerning the violation of forest laws.
  
9. In India, the Supreme Court is the apex Court which played a pivotal role in developing the jurisprudence in forest laws. The classic example of the role of the Supreme Court in the prevention and enforcement of forest laws is a case of **T.N. Godavarman Thirumalpad v. Union of India**, which was filed

in 1995 to address the issue of timber felling in the Niligiri Range of India. Hon'ble Supreme Court of India made it a lead case in forest laws and, instead of disposing it off, kept it pending and enlarged the scope in the course of time. The Supreme Court, in this case, is considering several issues relating to illegal deforestation, encroachment and conversion of forest land for non-forestry purposes without the necessary permissions of the Competent Authority.

10. In 1996, the Supreme Court in this case defined the forest for the first time and expressed that the forest must be understood according to its dictionary meaning. This description covers all statutorily recognised forests, whether designated as reserved, protected or otherwise, for the Forest Conservation Act. The Supreme Court further reiterated that prior approval of the government is required for non-forest activity within the area of any forest in accordance with the new definition of the forest.
11. In the same case, the Supreme Court, from 1997 to 2000, focused on forest land monitoring and project clearances. It formed a committee to review encroachments and forest degradation and ordered new projects, including mining,

construction, road expansion, etc., to adhere to forest conservation laws. One of the significant directions was that no non-forest activities like mining, building or commercial use of forest resources would occur in forest zones without prior consent of the Ministry of Environment and Forests. This was a vital direction strengthening the strict implementation of the Forest (Conservation) Act 1980.

12. In 2002, a "**Green Bench**" was established in the Supreme Court to address forest-related issues efficiently. Green Bench deals with the cases relating to violation of the forest laws. The Supreme Court also formed the Central Empowered Committee (CEC) to oversee activities concerning forest conservation and to ensure adherence to directives concerning the safeguarding of the forest. This committee has played a significant role in preventing unlawful logging, mining and invasion of forests.
13. In 2000, the Hon'ble Supreme Court passed an important judgment prohibiting mining operations in forests and wildlife sanctuaries unless they comply with stringent conservation requirements. This directive played a major role in halting the devastation of ecologically fragile regions. The Court further

mandated the removal of encroachers from forest land and the rehabilitation of forest regions. This specifically targeted protected forests and reserve forests that were unlawfully taken over by settlers.

14. The Court, between 2005 and 2010 directed states to remove encroachments from forest land, especially in protected areas. It also addressed the issue of tribal rights under the Forest Rights Act of 2006, which protects the rights of indigenous communities over forest resources.

15. In 2011, the Hon'ble Supreme Court banned mining in protected forest areas without specific clearances. It also enforces the need for rigorous environmental clearance procedures for all forest-related development projects. It ordered that before diverting any forest land for non-forest purposes, the project must undergo a thorough environmental and social impact assessment. It emphasised that the government must guarantee that forest land is not repurposed (diverted for any other purpose) unless absolutely essential and that the environmental impact of such repurposing is thoroughly examined.

16. From 2014 till now, in this case, the Supreme Court has focused on strengthening forest conservation mechanisms, holding State Governments accountable for forest management and focusing on biodiversity, which includes establishing better monitoring systems, holding states accountable for forest status and directing agencies to promote biodiversity protection.
17. It is a unique case that has been kept pending by the Supreme Court for the last 29 years and has played an important role in not only implementing and enforcing forest laws but in noticing the gaps in the forest laws and ensuring proper guidelines and regulations in place to fill the gap. This case is a clear reflection of how the judiciary can effectively contribute to protecting the forest and the development of forest law jurisprudence.
18. To effectively protect a forest, we need a multifaceted approach that incorporates judicial reforms, enhanced capacity within forest departments, increased public participation and robust international cooperation. As we deliberate here upon the issue of the role of the judiciary in the implementation and enforcement of forest laws in this session, I urge all to recognize

the power of the judicial system in progressing forest conservation.

Thank you!