

# ENVIRONMENTAL SUSTAINABILITY: DECENTRALIZATION OF GOVERNANCE OF FORESTS IN INDIA AND ENVIRONMENTAL ISSUES

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## Abstract

The paper analyses the assignment systems and implementation aspects of environmental regulation in regard to forests. The assignment of environmental functions and its overlapping is analyzed in terms of not only the different levels of government, but also between the executive and judiciary aspects. Specifically, the paper examines judicial intervention in environmental protection in India and argues that judicial activism although can be construed as a part of checks and balances in a federal system, it cannot be a substitute to the failure of executive in undertaking the task of environmental protection. The paper also analyses the implementation aspects of environmental policy, particularly the effectiveness of policies and institutions relating to environmental governance

**Key words:** Environmental sustainability, environmental governance, decentralization of governance, sustainable environment, environmental degradation, etc.

## 1. Introduction

The colonial administration declared the proprietary rights of the state over forests, and it was subsequently determined to what extent these were limited by legally existing rights of private persons or communities. After independence in 1947, the Government of India has made no substantive changes to this administrative structure. The state retained exclusive control over the management and protection of forest resources. The principles, which were to guide the forest policy of independent India, were enunciated in the National Forest Policy of 1952. The policy reiterated the principles of colonial forestry, as enshrined in the earlier Forest Policy Resolution of 1894, and reinforced the exclusive rights of the state with regard to the management and control of forest resources. A goal was adopted for bringing 60 per cent of the area in hilly tracts and 20 per cent of the area in plains under forest cover for ecological reasons.

## 2. Assignment of powers

The Indian Forest Act of 1927 provides the core of regulations and institutions governing forest management and preservation. In essence, control of forests has resided with state governments. The state governments have appointed forest officers, a cadre of state bureaucracy, as on-the-ground implementers of forest management. A 'Secretary' who belongs to the administrative cadre heads the state forest administration. He is assisted by the conservators of forests belonging to

the 'Indian Forest Service' who are technically more competent to manage forests as compared to the officers belonging to the administrative cadre. At the district level the District Forest Officer is the administrative head, below him there are Range Officers who administer the forests in different ranges of districts. These officers have often functioned relatively autonomously, and their ability to control the use of the natural resource without adequate monitoring has allowed them to engage in rent seeking. Thus, collusion between state forest officers, contractors and logging companies is acknowledged to be widespread, to the detriment of forest preservation. The Forest (Conservation) Act was passed in 1980, which gave the central government the power to control. The administrative centralization required a recasting of the responsibilities and duties of some of the departments of the central government that were responsible for forest planning. The Director General of Forests is the administrative head of the forest and wildlife related issues of the Union Ministry of Environment and Forest. There are three divisions supervised by the DGF, two of these relate to forest conservation and the third one is for wild life protection. One division is headed by Additional Director General of Forest and the division coordinates its conservation programme through seven regional offices, each headed by a Chief Conservator of Forests. Other functions of the division are to formulate policies, conduct surveys, conduct training programmes and undertake research and documentation.

The Indian Council for Forest Research and Education has been set up to facilitate research and documentation and use of scientific knowledge for preservation of forest and wild life. The council has set up several institutes to conduct its research activities. The forest conservation department addresses the problem of deforestation and land use changes. The second division supervises conservation and is headed by an Additional Secretary. This division also administers various other conservation programmes in addition to forests. The Additional Secretary reports to the DGF for forest conservation related issues and to Secretary in the Ministry for all other conservation programmes. The third department under the DGF administers the protection of wild life and maintains zoos and national parks. The multiple actors and plethora of bureaucracy at both central and state levels with a mix of generalists and those with specialized knowledge of forestry described above has not helped in the conservation of forest cover.

The central bureaucracy formulates policies often, without proper understanding of ground realities owing to its remoteness. Again, uniformity in policies may not be appropriate in a large and diverse country like India. The state bureaucracy has to deal with the central directives besides its own rules and regulations. It is also constrained by the nexus of contractors and politicians and often, become a part of the axis. Thus, the coordination cost of forest conservation has been high and not surprisingly, the policies and institutions have led to steady decline in the forest cover in the country. The central government introduced the Forest (Conservation) Act in 1980 in response to high rate of deforestation. The Act required that the state governments would have to obtain prior permission from a central committee in the Ministry called Forest Advisory Committee, headed by the DGF, for

conversion of forest land. Thus, the government's response to the declining forest cover has been to centralize decision making through increased monitoring and control. However, the deforestation problems were not due to non-optimal decisions by state governments. The problem lies in the structure of incentives to the state level bureaucrats and their incapacity to prevent quasi-legal or illegal logging activities or connivance with the contractors. In such cases increased central control would do nothing to tackle the root cause. Instead, more effective local monitoring through community and local government involvement would be an appropriate policy response. Thus, it is not surprising that the Act failed to check deforestation and the government finally had to opt for a decentralized governance structure by involving communities for forest protection and creating the institution of joint forest management in 1990.

### 3. Stakeholders in the forest sector

**Role of central and state governments:** The transfer of "forest and wildlife" from the state list to concurrent list in the constitution has given the central government overriding powers in formulating policies and promoting and coordinating programmes. The Ministry of Environment and Forests formulates overall policy framework. However, implementation of measures to protect forests is the responsibility of the states. Besides, as revenue from forests accrue to the state governments, the interests of the central and the state governments do not necessarily coincide, and the centre is arguably able to take a more long-term view. Politically, the centre responds to groups that are well represented in the national capital, particularly, conservationists, international agencies, and voluntary groups have a considerable influence on the direction of policy at this level. The responsibility for forest protection, management, and utilization rests with the states. The constitution also assigns the revenues from the forests to the state governments. Being closer to decision makers, regional and local interests influence formulation and implementation of regulatory policies on sustainable forestry. Furthermore, interest of revenue could result in poor enforcement of regulations relating to the protection of forests.

**Other stakeholders:** An important institution for the regulation and development of forests is the bureaucracy. The bureaucracy consists of field level officials of the State Forest Departments and decision-makers at the policy level. They are responsible for the day-to-day management of state forests, and have maximum direct interaction with user groups. They have enjoyed considerable freedom of action in implementation because existing forest legislation gives them a great deal of discretionary control over the flow of benefits from state forests. However, in some case interference by politicians considerably constrains their ability to act independently. Within rural society, it is possible to distinguish groups by the extent and nature of their dependence upon natural resources. The dependence of medium and large land owning groups on common resources is typically mediated through the market. Small and marginal farmers and the landless rural resource users depend on local commons for subsistence needs fuel, fodder, food, and basic construction timber.

Other stakeholders include manufacturers of forest-based products and contractors. Restrictions on logging has made forest based industry unviable. At the same time, forest contractors have been a strong force in preventing its effective implementation. Trade in non-timber forest products has been controlled by private contractors, who on the one hand depress wages to subsistence groups to make large profits, and on the other exploit both the forests and indigenous people living in forest. Despite the pronouncements by the National Forest Policy Resolution, 1952 and reiteration by various policy pronouncements including plan documents, contractors remain an exploitative force in forestry operations due to their strong political links and connivance with forest bureaucracy. The Forest Act allows the state to delegate the management of some forests, designated in such cases as village forests, to village community organizations. In practice, the weakness of local government institutions has meant that such assignments were very limited or useless in effect. While this situation may change in the long run, with the strengthening of local governments, it will require state governments' decision-makers give up significant source of rents. As documented by Wade in the case of irrigation, different levels of the bureaucracy and political structures also collude, and share the rents acquired from those who are given access to the resource.

#### **4. Features of decentralization**

The increasing depletion of India's forest resources has brought into sharp focus the inherent inadequacy of traditional state-owned and operated systems of forest management in sustaining the forest resource base against the growing human and livestock population pressures, industrialization and urbanization. Apart from developmental pressures, the dependence of forest user groups is a crucial factor in the state of Indian forests. Forest conservation priorities cannot be determined in isolation from local people and broader patterns of natural resource use, and this must be complimented by policies promoting sustainable and equitable development of the natural resource base as a whole. In acknowledging this factor, the Ministry of Environment and Forests issued policy guidelines for the involvement of village communities and voluntary agencies in the regeneration of degraded forest lands on June 1, 1990 under the Joint Forest Management (JFM) programme. Under the JFM programme, the local communities and the government manage the resource and share the cost. The effective and meaningful involvement of local communities in evolving sustainable forest management systems allows the use of indigenous knowledge about different aspects of conservation. It is well known that rural people particularly women and indigenous tribes, have intimate knowledge of species, their growth, utility and medicinal value. The linking of incentives and participatory forest development has been singularly instrumental in eliciting community participation. Currently, it is estimated that 10.24 million hectares of forest land are being managed under the JFM programme through 36075 village forest committees in 22 states. Following the launching of the JFM programme in India in the last decade, several issues of importance have emerged like the diversity in institutional and benefit-sharing arrangements, development of technology and silvicultural practices to increase the productivity of degraded forests, etc. In the

current arrangement, people's needs have taken centre stage. As a result silvicultural practices and technologies now need to be oriented to not only increasing forest productivity but also to the management of non-timber forest products, fodder, and fuel-wood.

A review of the institutional and benefit-sharing arrangements across states that have implemented JFM has caused some serious concerns. These include inadequate funds and arbitrary allocation of the available funds, inadequate personnel to supervise, lack of coordination between the administration and field staff, non-existence of a structure of governance to coordinate the working of village forest committees with other departments to avoid a multiplicity of committees within a village. The functioning of these committees under the local governments is also not well defined. Thus, existing legal and policy provisions relating to forests, revenue lands, rights and concessions, customary laws, traditional rights, resolution of conflicts and coordination between rural local governments and JFM lacks a clear framework.

There is also a plethora of ambiguous and often conflicting resolutions, laws, policies, and Acts. This leads to ambiguities and uncertainties, creates scope for supersession on the basis of legal technicalities. Despite a reasonably successful attempt in introducing decentralized and participatory management of forests through JFM, the success of the programme depends on the way in which the forest department and more particularly, the Divisional Forest Officer exercises his powers. In fact, the role assigned to the DFO is pivotal in the initiation and success of the JFM programme. The JFM has been launched only in areas where natural forests are already lost and local communities require help to restore forest cover and achieve a more sustainable forest management system. In many areas, indigenous people have felt excluded from JFM because opportunities to participate have been monopolized by higher caste and elite groups who have been able to use their greater access to officials to secure participation in the JFM scheme. The marginalized landless groups like the tribal people have thus seen 'degraded lands' and 'wastelands' that were important to their livelihoods annexed to JFM, leaving them further impoverished.

## **5. Intervention of the judiciary**

Despite recent efforts to increase forest cover through reforestation, there has been considerable depletion of the forest cover in India, and at present, the forest cover comprises less than 18 per cent of total land area. The actual forest area with crown density is only about 11 per cent. Despite legislations and allocation of financial resources, the forest area of the country instead of showing an increase has continued to deteriorate. According to the State of the Forest Report, 1997, between 1995 and 1997 more than 17000 square kilometers of forest land was lost. The Supreme Court in 1996 directed that all "ongoing activities in any forest in any state" should be stopped forthwith. It said no activity should be carried out without the prior permission of the central government under section 2 of the Forest Conservation Act, 1980. Every state was directed to ensure immediate compliance of the direction and report to the court within two months. As regards tropical



rain forests in Arunachal Pradesh in the districts of Tirap and Changlang, a complete ban on felling of trees was imposed. In 1998 the Supreme Court gave detailed order on pricing of timber, licensing, forest protection, management of forests, wood based industries and possible action against officials for neglecting duty or indulging in corrupt practices. The court instructed all the states with rich reserve of forest on the steps to be implemented to check deforestation. However, the decision of the Supreme Court has placed hardships on a number of state governments both in reducing the revenue earnings and in constraining forest resource based economic activity, many thought these ad hoc measures are fraught with danger; they can spin out of control unless the procedures are institutionalized and governed by suitably formulated laws and policies. The court's action has been effective in producing results.

## 6. Conclusion

This paper deals with the assignment system and implementation mechanism relating to the environmental functions in India. It analyses the effectiveness of environmental governance in the country by examining forest. It analyses the system of assignments, problems arising from the overlapping assignments, bargaining, and dispute resolution mechanisms in regard to the forest. It also analyses the implementation aspects of environmental policy to examine the effectiveness of policies and institutions relating to environmental governance. The assignment of environmental power in Indian federalism is reasonably clear. Broadly, while the central government has the responsibility of determining the overall policy frame, the sub-national governments are involved in implementation. Thus, the assignment system attempts to minimize transaction costs by providing sufficient scope for decentralized governance of environmental functions. At the same time, the central government has overriding powers to avoid unstable competition and institute mechanisms to resolve inter-state disputes. The institutions of JFM and village forest committees have enhanced the stake of the local population in the development of forestry. However, decentralized solutions may also lead to elite capture unless adequate safeguards are taken. Besides, the environmental regulators do not have access to modern technology to measure and regulate pollution levels, and the resources in their possession are inadequate. Often, we see the executive failure in environmental regulation leading to the intervention by the Supreme Court. There is also the problem of capacity of the Supreme Court to take into account changes in technology. In other words, replacement of executive action through judicial activism cannot be a satisfactory solution to environmental regulation

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