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FOREST LEGISLATION IN INDIA—CONTINUITY OR CHANGE ?**Saiki Talukdar**Assistant professor,
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Abstract: Forest Legislations in India since the time of British has always been a source of deprivation for a segment of the society. As a result, these experience protests from the people at many times. Ignorance of the human aspects by the alien ruler was quite acceptable as they did not have any aim of welfare of the poor people of India. But when the same outcome has come from the own people, the conflicts have gained a new momentum. The paper is an attempt to analyse the nature of various forests legislation since the time of British along with the recent shift in legislations brought by the Indian government to mitigate the conflict.

Keyword: Forests, Forests Legislations, Religious and Cultural norms, Conservation.

INTRODUCTION:

Forests represent one of the most important renewable resources on earth. But, over exploitation of this resource in India since the time of British has gradually transmitted it into a non renewable one as the required forest coverage for maintaining ecological balance has not been achieved for many years. Indeed, the situation is moving in an opposite way. Keeping in mind the necessity of forests and its overexploitation by the contractors, the British first thought about legislation to regulate the overconsumption of the forests. Accordingly they adopted forest legislation. The important nature of this piece of legislation was that it wanted to regulate those people who always use these in a sustainable way to meet their day to day needs and whereby they survive. This was done to keep the stock of the forests rich so that it can fulfill the timber needs of the England. Unfortunately the Acts, adopted by independent India retained all the anti-people element in its legislation related to the forests. This has aggravated the situation and both the depletion of forests and conflicts continues in one form or the other.

WHAT IS FOREST LEGISLATION-

Forest legislation, set of rules maintained for management, regulation or use of forest resources. FAO defines forest policy as, "A set of orientations and principles of actions adopted by public authorities in harmony with national socio-economic and environmental policies in a given country to guide future decisions in relation to the management, use and conservation of forest and true resources for the benefit of the society." This is generally brought forward to regulate the use of forest for its protection so that its capacity of renewability does not end and so that ecological balance is maintained equally. It may be in the form of document or may not be also. In traditional countries like India legislation prevails both in formal and in informal way. Various cultural and religious rituals play a very important role in regulating the use of the green gold and also

in its protection. Thus both these are in practice for the wellbeing of the mother earth. But now question is, to what extent these have appeared successful in the wellbeing of the nature. So, its time to examine the effectiveness of these measures.

EXISTING MEASURES IN INDIA-

Informal measures in the form of cultural and religious rituals are in existence since time immemorial. India is known for its diversity. Large number of groups of people is living in India with their distinct identities and culture. Indeed, most of them have developed their culture with the forests. Their lives, livelihood, economy, culture all are forests dependent. They, in order to protect their culture and economy related to the forests develop measures that regulate their use of the resources and thus help in sustainability of it. Sacred Grove represent one such religious cultural measure that help extensively in the protection of valuable trees.

The era of formal legislation started with the colonial rule although before that the kings made some rules for forest management. The British ruler, to meet the demand of wood, after the Industrial Revolution, started felling trees specially the Teak for shipbuilding as it had no other option of getting wood for building of ships. Thus at a time of fierce competition (1600-1700) among the colonial power the Indian trees were used to save England. Another wave to this process of felling trees came with the age of building of transport and communication system. With an aim to export raw materials from the Indian land the colonial ruler started building of railway network and for building the railway sleepers they needed a large number of woods. This need was fulfilled by the Indian forests. The contractors that were entrusted the responsibility of supplying timbers started to fell trees carelessly without considering the requirement. Thus a large chunk of forests were depleted. This situation compelled the alien ruler to think about some rules regarding

its felling. Accordingly the Forests Department was established in 1864. In 1855, for the first time the then governor general of India Lord Dalhousie issued the first memorandum towards forest conservation. Consequently, the first Inspector General of forests was appointed. German Botanist Dietrich Brandish, the first Inspector General of Colonial India then initiated the establishment of a forest department and forests legislations.

Forest Act, 1865 : The Act of 1865 was the first piece of legislation on forests adopted by the colonial ruler to regulate the forest of India, its most important and useful colony. This act was enacted to regulate forest exploitation by the common people so that it remains preserved for the rulers to use at their need. Through this the socially regulated practices of the local people were restrained by law. This act was applicable only to the public forest and excluded the private one from its scope. The Act empowered the government to declare any land covered with trees as government forest and to make laws for the preservation of the forests. It also mentioned that the customary rights of the people of the land should not be compromised in the way of preservation.

Forest Act, 1878 : The Second piece of legislation brought forward by the British was more comprehensive and restrictive compared to the earlier one. Indeed, it was brought to fill up the gap in the earlier act. This for the first time divided forests into three categories i.e. Reserved forest, Protected forest and Village forest. It put further restrictions on the collection and use of minor forest products by the village people and introduced the system of fine for any offences committed by the people by breaking the provision of the Act. In contrast to the first legislation this act made some provisions related to the private forest also.

Indian Forest Act, 1927 : This Act was another important step towards the increasing of government control over the forest of the colony. Under this act, the earlier provision of division of forest into three categories were kept without any change and elaborate provisions were made to extend state control over forests. This act increased the jurisdiction of the state over both public and private forest. The government was empowered to declare any forests as reserved and thereby to put restriction on the rights of the people over it. It was an important step towards the conversion of the rights of the people into privilege which was subjected to the permission of the forest department. The people were denied any right on reserved forests. Indeed a post called Forest Settlement Officer was created to restrict the entry of the local people into reserved forests.

Thus, it is clear from the above discussion that the colonial policies were created and maintained to protect the forests from the people who were in actual practice the original owner, user and protector of the forests so that they (the colonizer) can make maximum use and benefit of it. In a nutshell, during British period Forest Department was established, various laws were enacted with a view to have control over the rich resource of the colony and to earn more revenue from this. And it led to severe curtailment of the traditional and customary rights of the people in general and of the tribal in particular. There is nothing surprising in it as the colonial ruler had only one intention in their mind and

that was the exploitation of the natural resources of their colony to the maximum extent.

Independent India, almost in every aspect of administration is in same tune with the colonial ruler. Hence the forest policy of the country was also built on the basis of the colonial laws. The period of forest governance in India can be divided into Three phases-

The first phase that started immediately after independence and prevailed till 1970s. During this phase forests were considered as a source of revenue and an important means towards agricultural and industrial development. Indeed the 1952 forest policy stated, "Village communities in the neighbourhood of a forest will naturally make greater use of its products for the satisfaction of their domestic and agricultural needs. Such use, however, should in no event be permitted at the cost of national interest." The reason behind this was situation of the country at that time when the colonial ruler left the country in a state which was marked by gross economic backwardness with millions of starving and hungry people. Accordingly utmost emphasis was given on the development of agriculture and industry in every way.

The Second phase was slightly different from the first one as it put emphasis on the conservation of resources like forests and such other natural resources in response to the international cry for conservation of nature and its resources. Accordingly various measures were brought forward towards conservation. The Wild life protection Act 1972 falls under this phase although it is not related with forest directly. The management and conservation process of wildlife mentioned in the act did not recognize the customary rights of the forests dwellers.

The Third phase can be marked with gross change in the nature of forest legislation. It started with the enactment of the National Forest Policy of 1988 that for the first time recognized the rights of the people living in and around forests towards the management of it. Then JFM model was added to this process. Most important step taken at this phase was the adoption of the Forest Rights Act 2006 which can be considered belated but a historic and bold step towards the recognition of the rights of the people on forests, its use and management although implementation process of these measures has defeated its main aim and objectives.

The following pages will give glimpses of some of the forests legislations that comes under the three phase mentioned above.

National Forest Policy, 1952 : The National Forest policy 1952 was an extension of the earlier acts adopted and implemented by the colonial ruler in India. It laid down that the claims of the communities who live in and around the forest should not get priority over the national needs. Unfortunately it identified national interest in a very narrow way and emphasized mainly on use of forest for various construction purposes of the government and on the earning of revenue from forest.

Forest conservation Act, 1980: In response to the worldwide cry for protection of nature and its resources, the National Forest policy, 1980 was brought forward with an aim of protection of the forests of the country which was under severe trend of depletion. It was later revised in the year

1988.

National Forest Policy, 1988 (revised): This was the beginning of a new era in the field of forest administration. Events like Chipko movement and its impacts compelled the policy makers to think about legislation that recognize the role of both forest and people in the survival of each other.

Scheduled Tribes and Other Traditional Forests Dwellers Act, 2006:

This act represent a sharp diversion from the earlier legislations on forest. In contrast to all the earlier acts, this for the first time brought the issue of the traditional rights of the forest dwellers in forefront and recognized formally the rights of these people. It not only recognized the rights of the tribal people but also incorporated the other people who have been traditionally living in adjacent areas of forest for more than three generations or 75 years. The act recognized the title rights, use rights, relief and development rights and forest management rights of the people living in fringe areas of forests.

It is clear from the above discussion that forests management had undergone through a change after 1980s with the enactment of the National Forest Policy 1988. This new trend was further enriched by the JFM model that also recognizes people's participation in forest management.

OUTCOME OF THESE MEASURES-

Except the last two, the earlier measures were very much responsible in generating conflicts and dissatisfaction among the people. The trend of alienating the people from their sources of economic, food, cultural security, that has been prevailing from the period of colonialism has led to the impoverishment of a large section of the society. Their unorganized nature, lack of political consciousness, lack of proper education has helped the government or the ruling authority in neglecting their issues of livelihood and culture. But, gradually various movements are coming out to protest against this injustice of the government. They, under the civil society initiative have come out to the street to demand their rights. This compelled the government to adopt act like Scheduled Tribe and other Traditional Forests Dwellers Act 2006. If this piece of legislation get proper implementation then this section of people will get the minimum justice for which they have been fighting very long. But, very little claim of people has been settled under this.

Another important outcome of the situation is violent or destructive retaliation to the system and to the resources by the people. In many areas what has happened is that if people are not allowed to enter to the forest openly they manage to go secretly and destroy the valuable items by thinking that no one except them has rights over those resources and if they can not enjoy it no one else should get the chance to have it. This is very much natural also. Again, they get used by the smugglers in felling and transporting the items of the forest for money and thus they get involved in an illegal path of earning money. This has happened to a great extent in many parts of the country.

It is true that government must think about the protection of the resources or to regulate the uses of

resources. But that does not mean total negligence of the human issues. A balanced approach can go a long way under such a situation. For this many has put forward the concept of Integrated conservation and Development programme (ICDP) as an important method both for conservation and development of poor people living in the adjacent areas of the forests. Once the people are integrated with the protectionist measures who are very much enriched with traditional knowledge of forest utilization and conservation will definitely lead towards the development of the forest cover and production. This in turn will be able to fulfill the socio economic need of the local people. Benefits from protected areas such as revenue from tourism, direct payment for conservation, employment, protection of the resources from external threat can go a long way in benefitting the local people also. This has been done in Nepal through formation of Forest User Groups (FUGs). Under this system a group of people is entrusted with the responsibility to manage, conserve and use a particular forests area. The revenue earned from the forest is given to the group for its development. This has worked very successfully in Nepal. Again, giving alternative livelihood to the people constitute another measure towards solving the problem. For this better educational and training facilities should be made available to these people so that they can go for alternative livelihood. Along with these, training should be provided for cultivation of various seasonal items that help in their earning and thereby reduce their dependency on forests products.

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